

# NAVAL POSTGRADUATE SCHOOL

## Monterey, California



## THESIS

**ASSESSMENT OF THE FISCAL YEAR 1997  
DEPARTMENT OF DEFENSE BUDGET AND  
PROGRAM ACTIVITIES FOR DOMESTIC  
DEFENSE AGAINST WEAPONS OF MASS  
DESTRUCTION**

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BUDGET AND PROGRAM ACTIVITIES FOR DOMESTIC DEFENSE AGAINST  
WEAPONS OF MASS DESTRUCTION**

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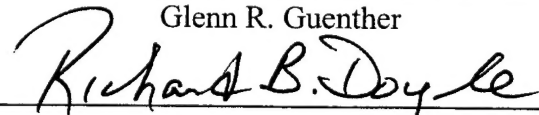
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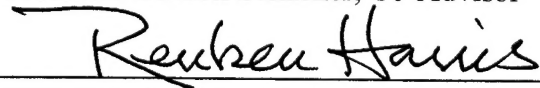
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## ABSTRACT

This thesis examines the Department of Defense involvement in U.S. preparedness to manage the consequences of a nuclear, radiological, biological, or chemical terrorist attack against its cities. It analyzes the establishment and implementation of the Defense Against Weapons of Mass Destruction Act of 1996 which directed the Department of Defense to assist in the training of state and local emergency response agencies involved in consequence management activities. The historical analysis focuses on the proliferation of weapons of mass destruction since the dissolution of the Soviet Union, major terrorist incidents since 1993, international standards, and legislative and executive efforts undertaken to combat terrorism up to 1996. The \$150 million Nunn-Lugar-Domenici amendment to the FY-97 National Defense Authorization Bill is examined in detail from introduction on the Senate floor to eventual passage and enactment. Problems and policy issues associated with resourcing and implementing the resulting Domestic Preparedness Program are treated. Although the DoD was given responsibility for implementing city training, an interagency effort ensued involving the Public Health Service, Environmental Protection Agency, Federal Bureau of Investigation, Federal Emergency Management Agency, Department of Energy, and others. Potential weaknesses may materialize due to several characteristics of the Domestic Preparedness Program, including its novelty and uniqueness, the unorthodox legislative process by which it was established, and its complex organizational structure and temporary nature.



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## LIST OF ACRONYMS AND ABBREVIATIONS

AMC	Army Material Command
BWC	Biological Weapons Convention
CB	Chemical Biological
CBDCOM	U.S. Army Chemical Biological Defense Command
CBIRF	U.S. Marines' Chemical Biological Incident Response Force
CBQRF	Chemical Biological Quick Response Force
CTR	Cooperative Threat Reduction
CWC	Chemical Weapons Convention
DoD	Department of Defense
DoE	Department of Energy
DoJ	Department of Justice
DOMS	U.S. Army Director of Military Support
DoT	Department of Transportation
EPA	Environmental Protection Agency
FBI	Federal Bureau of Investigation
FEMA	Federal Emergency Management Agency
FSU	Former Soviet Union
FY	Fiscal Year
HAZMAT	Hazardous Materials
HHS	Department of Health and Human Services
MMST	Metropolitan Medical Strike Team
NBC	Nuclear, Biological, and Chemical
NRC	National Response Center
NSC	National Security Council
O&M	Operations and Maintenance
PDD	Presidential Decision Directive
PHS	Public Health Service
RDT&E	Research, Development, Test, and Evaluation
SICG	Senior Interagency Coordination Group
WMD	Weapons of Mass Destruction



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## I. INTRODUCTION

This thesis examines the fiscal year 1997 (FY-97) Department of Defense (DoD) funding for a Domestic Preparedness Program, which was initiated to enhance the U.S. capabilities to respond to a terrorist incident involving weapons of mass destruction (WMD). During the federal budget process in 1996, Senators Nunn (D-Georgia.), Lugar (R-Indiana), and Domenici (R-New Mexico) sponsored an amendment to the FY-97 National Defense Authorization Act. The Domestic Preparedness Program was established by this amendment, titled the Defense Against Weapons of Mass Destruction Act of 1996. The amendment's sponsors recognized that the DoD had built up considerable expertise in the area of nuclear, biological, and chemical (NBC) defense issues. The DoD was therefore directed to lead a federal interagency effort in developing a program to assist in the training of civilian emergency response agencies in managing the consequences of a domestic terrorist attack using WMD.

The examination of this legislation begins with a review of terrorism and proliferation issues after the dissolution of the Former Soviet Union (FSU). Both international standards and national policy are presented, along with a historical timeline of events relating to terrorism and pertinent legislation since 1993. Building on this policy and historical base, the author analyzes the national budget process as it took place during 1996 in order to define the legislative context for the Domestic Preparedness Program. The President's budget request and the authorization and appropriations bills in both houses of the Congress are examined. Specifically, the author conducts an in depth analysis of the Defense Against Weapons of Mass Destruction Act of 1996, commonly known as Nunn-Lugar II or Nunn-Lugar-Domenici, and the applicable sections of the FY-



97 National Defense Appropriations bill. Both the authorization and appropriations amendments originated in the Senate as floor-added amendments to their respective bills. The Department of Defense's implementation of the letter and spirit of the congressional legislation is assessed, as well. Finally, the author raises potential problem areas and significant policy issues associated with the newly-initiated Domestic Preparedness Program.

## **A. OVERVIEW**

This chapter presents an introduction to, and background on, the chemical and biological terrorist threat to the continental United States, as well as Hawaii and Alaska. The chapter describes the scope, methodology, and goals of the thesis, including the primary research question.

### **1. Background**

Since the collapse of the Soviet Union and the virtual elimination of a dual superpower world, the proliferation of WMD has increased. As no other country can realistically match the U.S. in a conventional conflict, probable enemies may view chemical and biological weapons as a cheaper, more effective means by which to accomplish their ends. At least 28 countries either possess, likely possess or have clear intent to possess WMD [Ref. 1:p. 3]. Some of those countries such as Libya, Iran, North Korea, Iraq, and Syria either currently sponsor and/or harbor terrorist groups or have done so in the recent past.

The United States condemns all forms of terrorism and its policy is not to negotiate with terrorists. The Clinton administration reaffirmed a long standing policy on terrorist or any other enemy's use of WMD against the United States: a response of overwhelming

proportions will be invoked against the perpetrator [Ref. 2]. However, zero tolerance regarding terrorist attacks becomes more difficult to enforce when the attack involves chemical and biological weapons. This is due to their potential ease of manufacture, transportation, and dissemination by the culprit, and associated difficulty in identifying the culprit.

## **2. Department of Defense**

Prior to 1992, the DoD's involvement in WMD issues focused mainly on winning a war in an environment contaminated with their use. The DoD's policy on Nuclear, Biological, and Chemical Warfare/Defense can be divided into two parts. The first part is the U.S. Strategic Command's control of the nuclear triad of strategic bombers, Submarine Launched Ballistic Missiles, and land-based Intercontinental Ballistic Missiles. These platforms served as instruments to help sustain the arms race with the Soviet Union, and continue to provide the U.S. with nuclear capability. Issues involving the use of nuclear weapons are decided at the national command authority level, from which the average soldier or sailor is insulated by many levels of command.

The second dimension of DoD's policy affects much lower levels than the first. Commonly referred to as NBC Defense, this portion deals more directly with defense against nuclear, biological, and chemical weapons on the field of battle. It is in this area that the DoD has developed expertise, acquired equipment, and developed doctrine on the proper techniques for combating chemical and biological weapons which are relevant to domestic civilian defense. As the resident experts on the subject within the federal government, the DoD has been tasked to share that expertise with civilian emergency response agencies.

When the Soviet Union collapsed in 1991, their formidable arsenal of WMD became perhaps of greater concern to the U.S. than before the breakup due to poor accounting procedures, the activities of criminal groups, and the massive quantities of dangerous materials susceptible to acquisition by such groups or other unconventional actors. According to a 1996 General Accounting Office report, "Upon its breakup in 1991, the Soviet Union bequeathed a vast array of weapons of mass destruction to Russia, Ukraine, Belarus, and Kazakhstan. This legacy included about 30,000 nuclear weapons, 2,500 strategic nuclear delivery systems, and at least 40,000 metric tons of chemical weapons." [Ref. 3:p.1] In response to the potential threat of some of these weapons going unaccounted for or eventually stolen, the DoD became involved in the counterproliferation of WMD around the world. These activities constitute a new third category of NBC warfare and defense.

The Congress has funded various DoD activities for counterproliferation beginning with the Freedom Support Act of 1992. Through this legislation, various DoD organizations used roughly \$800 million, which was added to the Pentagon's budget, to assist countries of the FSU in dismantling their nuclear and chemical weapons stockpiles [Ref. 4:p. 526]. Senators Nunn and Lugar were the primary sponsors of this new Cooperative Threat Reduction (CTR) program, hence it became known as the Nunn-Lugar bill. The CTR program still exists, and served as the base on which Nunn-Lugar II was built.

### **3. Proliferation Issues**

Despite the efforts of the DoD and other agencies, the world-wide proliferation of chemical and biological weapons has increased. The issue has remained a top priority of the Clinton administration, as evidenced by this reference from the National Security Strategy of May 1997:

Weapons of mass destruction pose the greatest potential threat to global security. We must continue to reduce the threat posed by existing arsenals of such weaponry as well as work to stop the proliferation of advanced technologies that place these destructive capabilities in the hands of parties hostile to U.S. and global security interests. Danger exists from outlaw states opposed to regional and global security efforts and transnational actors, such as terrorists or international crime organizations, potentially employing nuclear, chemical or biological weapons against unprotected peoples and governments. [Ref. 5]

Congress has consistently funded the CTR program, while growing more concerned over potential attacks against U.S. population centers. After several years of urging the President to strengthen interagency efforts to protect against and mitigate the effects of an attack, the Congress was not satisfied with the results. In 1996, the Congress enacted a the Defense Against Weapons of Mass Destruction Act requiring executive branch efforts to assist in protecting cities. The DoD was directed to make their resources and expertise available for use in the effort and assume the lead agency role in its implementation.

### **B. SCOPE**

The scope of this thesis is characterized by four issues. The first of these is the current political and threat environments within which the President and various congressional committees make their decisions. Over the past four years, the threat of an attack using NBC weapons has received increasing public attention. Consequently, the

issue has become more important to constituents, and, therefore, to their elected representatives.

The second is the specific funds earmarked for counterproliferation activities to prevent a terrorist attack by making it more difficult for terrorists to acquire these weapons. The budget portion of the thesis excludes counterproliferation funds, and instead focuses on funds provided to aid in the protection of U.S. cities. The author analyzes the Defense Against Weapons of Mass Destruction Act of 1996 to ascertain the policy guidance and funding provided for domestic preparedness issues.

The third issue is DoD's implementation of the newly initiated Domestic Preparedness Program. When crafting the legislation for the FY-97 National Defense Authorization and Appropriations Bills, Congress included specific guidance regarding the manner in which the funds would be expended. The author will analyze, insofar as information is available, how the DoD implemented those plans, including the specific programs which resulted.

Finally, although the Domestic Preparedness Program concerns nuclear, as well as chemical and biological weapons, the author focuses on the latter two aspects for two reasons. First, the nuclear issue is addressed by Department of Energy (DoE) programs currently in place to handle domestic nuclear disasters. Therefore, the DoD was not tasked to become intricately involved in the nuclear realm. Second, due to the nature of biological and chemical weapons, for example their ease of manufacture, weaponization, and transportability as compared to nuclear weapons, terrorists are more likely to use them vice a nuclear device to execute an attack on U.S. cities.

## C. RESEARCH METHODOLOGY

The research and collection of data for this thesis addressed both qualitative and quantitative materials. The qualitative aspect involves a comprehensive review of the national defense budget process for FY-97. The data for this was obtained through analysis of the national defense authorization and appropriations bills, committee reports, Congressional Record, and the Congressional Quarterly publication. The quantitative portion of the research involves reviewing the documents stated above to identify the funds contained in the Defense Against Weapons of Mass Destruction Act of 1996. The author conducted interviews with several individuals involved in the legislative formulation or the implementation of Nunn-Lugar II. Those individuals were:

- Ms. Monica Chavez, Professional Staff Member, Senate Armed Services Committee;
- Ms. Suzanne Fournier, Public Affairs Representative, U.S. Army Chemical Biological Defense Command;
- Mr. Bill McCoy, Chief of Domestic Preparedness Policy, Office of the Assistant Secretary of Defense (Special Operations and Low Intensity Conflict), Counterterrorism;
- Press Secretary, Office of Congressman Curt Weldon (R-Pennsylvania)

During the process of researching the WMD terrorist threat and related legislation, the author collected information from a wide variety of sources. Congressional testimony was gathered from hearings held in 1996 and 1997 by the Senate Armed Services Committee, Senate Governmental Affairs Committee's Permanent Subcommittee on Investigations, and the House National Security Committee's Research and Development Subcommittee. Newspaper, magazine, and journal articles were reviewed from the time of the World Trade Center bombing in 1993 up through the writing of the thesis in November of 1997. The author researched legislative documents such as the national defense authorization and appropriations bills, with their accompanying committee reports, and the

*Congressional Record*. National policy guidance such as Presidential Decision Directive 39, the National Security Strategy, and the Anti-Terrorism Law of 1996 explained current U.S. strategy on terrorism. Congressional Research Service, General Accounting Office, and other reports provided background and analytical information on programs related to the Defense Against Weapons of Mass Destruction Act of 1996. The author accessed the internet to gather information from government sites such as the Marine Corps' Chemical Biological Incident Response Force, the U.S. Army's Chemical Biological Defense Command, the Office of Domestic Preparedness, and the Deputy to the Assistant Secretary of Defense for Counterproliferation and Chemical/Biological Defense. These sites provided up-to-date information on various related programs.

#### **D. GOALS**

The primary goal is to precisely identify the policy and funding for DoD support of domestic preparedness against terrorist attacks using nuclear, radiological, chemical, or biological weapons deriving from the FY-97 national defense budget. Subsequent to answering the primary research question, the author seeks to answer the following secondary questions:

- What is the current national policy and strategy in regard to domestic chemical and biological counterterrorism?
- Who were the major advocates and opponents for and against funding for the Defense Against Weapons of Mass Destruction Act and what were their rationales for taking these positions?
- What organizations inside and outside the DoD are responsible for implementing this strategy?
- How has the DoD implemented the policy and strategy which resulted from the Defense Against Weapons of Mass Destruction Act of 1996?

This study provides baseline information on the legislative intent of the Defense Against Weapons of Mass Destruction Act of 1996, which resulted in an important new DoD activity, the Domestic Preparedness Program. It indicates the relationship between this aspect of DoD's WMD policy and those previously developed. It also compares authorization, or policy provisions, with appropriations. The research questions are particularly relevant in light of shifting priorities in a time of decreasing national defense budgets, as well as rapidly changing global security.





## **II. ORIGINS OF NATIONAL POLICY ON DOMESTIC PREPAREDNESS AGAINST NUCLEAR, CHEMICAL, AND BIOLOGICAL TERRORIST ATTACKS**

In the years prior to 1996, many domestic and foreign factors influenced the United States Congress and preceded its enactment of legislation concerning WMD. Two themes permeate most issues dealing with national security in the final decade of the 20<sup>th</sup> century - terrorism and WMD proliferation. Although both existed well before they became a direct threat to the U.S., each has gained much more attention within the media, Congress, and the executive branch of the federal government during the 1990s. The end of the Soviet Union began an era of U.S. security characterized by instability in eastern Europe, lack of a clear enemy, more and deadlier terrorist attacks, and the proliferation of WMD to countries hostile to the U.S. Table 2.1 depicts pertinent events since 1991 which partially contributed to the crafting of the Defense Against Weapons of Mass Destruction Act of 1996. Also shown are several events which took place after this legislation was signed into law.

This chapter describes the environment within which the President, Congress, and other national leaders made decisions concerning the protection of the U.S. and its citizens against the growing threats of terrorism and the proliferation of WMD. Terrorism and its various forms are discussed, along with a review of significant domestic and WMD terrorist attacks in the last five years. Subsequently, proliferation issues are discussed in terms of the Post-Cold War era. Chemical and biological weapons proliferation is discussed specifically, with regard to potential ease of production, transportation, and delivery. International policy in the form of the Biological and Chemical Weapons Conventions are reviewed for their relevance to current U.S. policy. Finally, the chapter

<b>1991</b>	Congress authorizes DoD to establish Cooperative Threat Reduction (CTR) program.
<b>October 1992</b>	President Bush signs Freedom Support Act authorizing use of Pentagon funds to help FSU dismantle their arsenal of nuclear, biological and chemical weapons, as part of the CTR program.
<b>February 1993</b>	Terrorists bomb World Trade Center in New York City.
<b>November 1994</b>	Conference Committee on the FY-94 National Defense Authorization Act directs President to strengthen Federal interagency planning by FEMA and develop early warning of and response to WMD disasters.
<b>March 1995</b>	Terrorists attack subway in Tokyo, Japan using chemical weapons.
<b>April 1995</b>	Alfred P. Murrah Federal Building is bombed in Oklahoma City.
<b>June 1995</b>	Senate initiates Anti-Terrorism Package.
<b>June 1995</b>	President Clinton signs PDD-39 "U.S. Policy on Counterterrorism."
<b>December 1995</b>	Chechen rebels place a 30-pound pack of radioactive material in Moscow Park.
<b>February/March 1996</b>	House National Security Committee's Subcommittee on Research and Development and Senate Permanent Subcommittee on Investigations hold hearings on domestic WMD incidents, which reveal serious shortfalls in state and local units' abilities to handle situation adequately.
<b>April 1996</b>	President Clinton signs Anti-Terrorism Bill.
<b>25 June 1996</b>	Terrorists bomb U.S. military housing building in Saudi Arabia.
<b>27 June 1996</b>	Senate passes amendment to FY-97 Authorization bill aimed at preventing WMD terrorist attacks in U.S. Amendment would become "Defense Against Weapons of Mass Destruction Act of 1996."
<b>July 1996</b>	Unknown person(s) bomb Centennial Park at the Atlanta Olympics.
<b>September 1996</b>	National Governors Association conducts workshop revealing inadequate training for chemical and biological terrorist attacks.
<b>September 1996</b>	FEMA meets with representatives from Boston, Denver, L.A. and Philadelphia to document critical need for access to information, expert advice and training for chem/bio attack.
<b>January 1997</b>	FBI/FEMA submit joint report to Congress addressing crisis and consequence management and recognizing importance of training and equipping local first responders.
<b>February 1997</b>	DoD conducts series of focus group meetings leading to comprehensive set of performance objectives by which first responders can be evaluated.

Table 2.1. Significant events in the 1990s leading up to and shortly following the Defense Against Weapons of Mass Destruction Act of 1996.

covers legislative efforts and executive direction of the U.S. through 1996 aimed at ensuring preparation for domestic WMD terrorist attacks.

## A. TERRORISM

### 1. Background

The Federal Bureau of Investigation (FBI) acknowledges that no single definition for terrorism exists. However, in a 1995 document the FBI provided the following definitions, which will be used for the purposes of this thesis:

*Domestic terrorism* involves groups or individuals who are based and operate entirely within the United States and Puerto Rico without foreign direction and whose acts are directed at elements of the U.S. Government or population.

*International terrorism* is the unlawful use of force or violence committed by a group or individual, who has some connection to a foreign power or whose activities transcend national boundaries, against persons or property to intimidate or coerce a government, the civilian population, or any segment thereof into furtherance of political or social objectives.

[Ref. 6]

Further, the FBI divides terrorist-related activity into three categories:

- A *terrorist incident* is a violent act or an act dangerous to human life, in violation of the criminal laws of the United States or of any state, to intimidate or coerce a government, the civilian population, or any segment thereof, in furtherance of political or social objectives.
- A *suspected terrorist incident* is a potential act of terrorism which responsibility for the act cannot be attributed at the time to a known or suspected terrorist group or individual.
- A *terrorism prevention* is a documented instance in which a violent act by a known or suspected terrorist group or individual with the means and a proven propensity for violence is successfully interdicted through investigative activity. [Ref. 7:p. 4]

Experts disagree on the issue of whether terrorism is increasing or decreasing in the world today. For example, a September 1997 General Accounting Office report states, "while the number of terrorist incidents both worldwide and in the United States has declined in recent years, the level of violence and lethality of attacks has increased." [Ref. 8:p. 12] Therefore, it depends on whether one is looking at number of incidents or lethality. The United States government is concerned with defending the country and its territories against all forms of terrorism, regardless of the sponsorship or intentions of the culprits.

The goal of terrorists is to spread fear and anxiety throughout a society in order to further their political wishes. In a March 1996 hearing of the Senate Governmental Affairs Committee Permanent Subcommittee on Investigations, H. Allen Holmes, Assistant Secretary of Defense for Special Operations and Low Intensity Conflict, addressed this point concerning the terrorist use of WMD in the United States. He stated:

A more significant concern for the U.S. is the psychological fear of a WMD attack. The anxiety generated by such fear may pose far more difficult problems than the physical threat itself. The public must be made aware of the many limitations of the WMD threat and that there are many methods of protection. [Ref. 9]

Until 1993, the United States witnessed the use of these tactics in other countries, for example, to disrupt peace talks in the Middle East and Northern Ireland, protest against the injection of Western culture and imperialism, and to express displeasure over a particular political party holding office. Those events, horrific to the individuals and countries involved, normally took place thousands of miles from the U.S. borders. America and its citizens seemed protected by the combination of bordering oceans and friendly adjacent countries. However, that sense of security vanished for the majority of U.S. citizens when the World Trade Center was bombed by terrorists in 1993.

## 2. Terrorist Events

### *a. World Trade Center Bombing*

On January 26, 1993, a car bomb placed in the lower parking garage structure of the World Trade Center in New York City exploded. The blast killed five people and wounded more than 1,000 other employees working inside the building. Within 24 hours of the explosion the New York City police and the FBI received at least nineteen phone calls claiming credit for the attack. Several of the calls involved terrorist groups from the Balkans and Iran. Eventually, four Muslim militants would be arrested and one has been tried and convicted in the United States thus far. [Ref. 10]

The deaths and injuries were tragic, but the numbers could have been much higher if either of two major events would have occurred. First, the terrorists intended for the explosion to collapse several support frames of the garage, thereby sending one tower toppling over into its twin. Second, although never proven at the trial, the convicted terrorist Ramsi Yousef considered lacing the bomb with cyanide. When arrested, he possessed manuals on chemical and biological weapons. Further, evidence at the crime scene showed that a small amount of cyanide may have been used in the weapon. [Ref. 11]

Citizens of the U.S. had heretofore never experienced a terrorist attack of this magnitude within their borders. The World Trade Center bombing represented a "wake-up call" for the U.S. government to enhance planning for disasters of this nature. The relatively secure feeling provided by isolated borders had vanished overnight at the hands of Muslim extremists.

### **b. *Tokyo Subway Attack***

On March 20, 1995, members of the Japanese religious cult Aum Shinrikyo placed several bags containing the deadly chemical nerve agent Sarin aboard a rush-hour commuter subway train in Tokyo. Killing 12 people and injuring 5,500 more, the “attack was the first instance of large-scale terrorist use of chemical weapons,” according to Dr. Gordon C. Oehler, Director of the Nonproliferation Center [Ref. 12]. Similar to the effects of the World Trade Center incident on American citizens, the attack transformed Japan’s outlook on terrorist incidents from a feeling of secure insulation to a fear of future disasters.

When the Aum Shinrikyo members used Sarin in their attack, it broke an unspoken rule among terrorists against using WMD to achieve their aims, opening the door for further uses of easily manufactured chemical or biological weapons. The attack also upped the terrorist ante in terms of the lethality of their means. Of the attack, Michael Krepon, president of the Henry L. Stimson Center in Washington said, “A quart jar of the nerve agent Sarin can contain approximately 1 million lethal doses. Fortunately, the witch’s brew concocted by the Tokyo Subway terrorists was a pale shadow of the real stuff.” [Ref. 13]

### **c. *Oklahoma City Federal Building Bombing***

Shortly after 9:00 a.m. on April 19, 1995, terror struck the U.S. heartland. A truck bomb exploded outside the Alfred P. Murrah federal building in Oklahoma City, Oklahoma, killing 168 people and wounding hundreds of others. Federal agents immediately spread an international dragnet, only to discover that one of the alleged perpetrators was arrested by a highway patrolman a few short miles from the blast on the same day. Timothy McVeigh was tried and convicted of the bombing in June 1997, and

subsequently sentenced to death. McVeigh and accused co-conspirator Terry Nichols, whose trial is currently underway, were allegedly members of a violent right-wing militia group in the U.S. McVeigh and the group were allegedly still seething over the federal raid on the Branch Davidian complex in Waco, Texas which occurred exactly one year prior to the Oklahoma attack. [Ref. 14]

The Oklahoma City bombing brought a new form of violence and terrorism to the forefront of the media and public attention. Domestic militia groups who had long been voicing concerns over increasing government power and corruption were now thrust into the group of not only possible but likely purveyors of terrorism within the U.S. borders. Although the attack did not involve chemical or biological weapons, it was the second major terrorist attack to occur in the U.S. in two and a half years. Further, it exacted a much higher death toll than the January 1993 World Trade Center bombing.

***d. Radiological Device in Moscow Park***

In November of 1995, rebels from the Russian state of Chechnya placed a small, encased radiological device in a Moscow Park, but did not detonate it. The device was supposedly placed there in order to prove to Moscow officials that the Chechens possessed radiological agents and were willing to use them in order to secure the state's independence. In a statement before the Senate Armed Services Committee in March of 1996, Dr. Oehler described the incident:

In November 1995, a Chechen insurgent leader threatened to turn Moscow into an 'eternal desert' with radioactive waste, according to press reports. The Chechens directed a Russian news agency to a small amount of cesium-137 in a shielded container in a Moscow park which the Chechens claimed to have placed. Government spokesmen told the press that the material was not a threat, and would have to have been dispersed by explosives to be dangerous. According to DoD assessments, there was only a very small quantity of cesium-137 in the container. If it had been dispersed with a bomb, the park could have been contaminated with low levels of radiation. [Ref. 15]



Although unexploded and not casualty inducing, the radioactive material left by the Chechens brought nuclear weapons and materials into the realm of possible weapons for use by terrorist groups.

***e. Khobar Towers, Saudi Arabia***

On June 25, 1996, terrorists parked a truck loaded with explosives next to a building which housed U.S. military personnel in Dhahran, Saudi Arabia. Minutes later, the bomb exploded, killing 19 U.S. servicemen and injuring dozens of others. Americans had witnessed an attack of this scale against the military since the Marine Barracks bombing in Beirut, Lebanon in 1983. Even though the attack did not take place on U.S. soil, it was a terrorist act against American citizens, and therefore would have a future effect on its lawmakers. [Ref. 16]

***f. Centennial Park Bombing***

Atlanta, Georgia was the site for the summer Olympic Games in 1996. Early in the morning hours on July 27, a bomb exploded in Centennial Park near the site for the Games where a musical concert was taking place. The bomb, allegedly home-made and simplistic, killed two people and injured dozens of others. No terrorist group or domestic militants claimed responsibility, but the immediate belief was that militia groups who had been threatening to disrupt the Olympics were responsible. The FBI still has not arrested any suspects in the bombing. [Ref. 17]

As this was the third major attack on U.S. soil, after the World Trade Center and Oklahoma City, American citizens were becoming all too familiar with the sights and sounds of the aftermath. Although the Olympic Games continued as scheduled, the bombing diminished the country's confidence in domestic security even further. Mary

Lynn Logan, a spectator in Atlanta from San Antonio, Texas, indicated her view that "These things happen, I guess it's the way of the World now." [Ref. 18:p. 27]

## **B. PROLIFERATION OF WEAPONS OF MASS DESTRUCTION**

### **1. The Nature of Chemical and Biological Weapons**

Chemical and biological weapons have inherent characteristics which make them plausible and likely terrorist weapons. Several of these characteristics are discussed below.

Chemical and biological weapons conjure up grotesque images of people writhing around on the ground choking, vomiting, and bleeding from several different orifices. Regardless of the likelihood of an attack, this constitutes a major part of WMD effects – the psychological effects caused by a perceived threat that an attack may occur. The combination of fears from both WMD and a conventional terrorist attack increases the overall terror level. Terrorists are increasing their consideration of using chemical and biological weapons as more effective means to accomplish their ends.

Chemical agents have been used in modern warfare since the trench fighting of World War I. Table 2.2 indicates that at least 25 different countries world-wide either possess now or have the intent to possess chemical agent programs [Ref. 19:p. 3]. Six of those countries, Libya, Syria, North Korea, Iran, Iraq, and Cuba are confirmed state sponsors of terrorism [Ref. 20].

Chemical agents have several characteristics which make them attractive terrorist weapons. First, they are relatively cheap to produce. The ingredients come mainly from substances normally produced in mass quantities by many types of industry. Second, many business production facilities which produce or use substances common to

Country	Nuclear Weapons	Biological Weapons	Chemical Weapons
France	PC	Destroyed	SP
United Kingdom	PC	Destroyed	
United States	PC		PC
Belarus	PC		
Kazakhstan	PC		PP
Russia	PC	PC	PC
Ukraine	PC		PP
Afghanistan			PP
Burma			PP
China	PC	PP	PP
India	PP	PP	
Pakistan	PP	PP	SP
North Korea	PP	PP	PP
South Korea	Suspended		SP
Taiwan	Suspended	PP	PP
Thailand			SP
Vietnam			PP
Egypt		SP	PP
Iran	CI	PP	PC
Iraq	CI	CI	PC
Israel	PP		PP
Syria		PP	PP
Ethiopia			PP
Libya	CI	SP	SP
Somalia			SP
South Africa	Suspended		SP
Cuba			SP
Chile			SP

**Key:**

PC – Possession Confirmed

PP – Probable Possession

SP – Suspended Programs

CI – Clear Intent

Blanks indicate none

Table 2.2. NBC Weapons Possession and Programs.  
After Ref. [19].

chemical agents make their utilization as weapons facilities easily concealed. Intelligence and treaty enforcement officials experience difficulty in proving a facility is being used to manufacture chemical weapons. Third, due to the high cost of detection and decontamination systems and the vast expanse of city area to protect, chemical agents can prove extremely costly to counter. Fourth, chemical agents can kill or incapacitate living targets within seconds of the agent's release, leaving little reaction time for intended victims. [Ref. 21]

Biological warfare has been used for longer than chemical warfare, and dates back to the period of siege warfare. Fortress attackers used to catapult dead animal carcasses over fort walls to spawn disease among its occupants. John Collins, a Senior Specialist in National Defense in the Congressional Research Service defined biological agents in a 1995 report:

Biological warfare agents share many characteristics with CW: they are relatively inexpensive, unpredictable area weapons that are sensitive to assorted influences, especially weather. Unlike chemicals, however, most are living microorganisms—viruses, rickettsias, bacteria, protozoa, fungi—and derivative infectious materials that cause diseases in people, livestock, or plants. Toxins, which occupy a separate category, are poisonous by-products of metabolic processes, although some are synthetic. Botulism, staphylococcal toxin, and mycotoxin (fungus) are typical. [Ref. 22:p. 16]

Table 2.2 indicates that 11 countries, including five of the state sponsors of terrorism mentioned above, currently possess or intend to possess biological weapons programs.

Biological agents share many of the same characteristics as chemical agents, which make them attractive to terrorists, as well as possess some unique ones of their own. First, they are even cheaper and easier than chemical weapons to produce. With a small laboratory and a few dollars worth of virus, a country can maintain a formidable biological weapons facility. Second, because disease normally involves incubation time, perpetrators are able to depart the infected area before the attack is discovered. The incubation

period also allows the transportation to and infection of a greater number of victims prior to disease discovery. [Ref. 23]

## **2. The Fall of the Soviet Union**

From the beginning of the Cold War shortly after World War II until the final decade of the 20<sup>th</sup> century, the most formidable adversary of the United States was the Union of Soviet Socialist Republics, or Soviet Union. In 1991, the world of two superpowers ended when the Soviet Union ceased to exist, splintering into smaller republics. The break-up removed the most prominent threat to American democracy, but at the same time created new national security challenges, especially the proliferation of WMD.

When the Soviet Union dissolved, several problems arose concerning its extensive arsenal of nuclear, biological, chemical and radiological weapons still in existence. According to a 1996 General Accounting Office report, "Upon its breakup in 1991, the Soviet Union bequeathed a vast array of weapons of mass destruction to Russia, Ukraine, Belarus and Kazakhstan. This legacy included about 30,000 nuclear weapons, 2,500 strategic nuclear delivery systems, and at least 40,000 metric tons of chemical weapons." [Ref. 24:p. 1] It became imperative for the U.S. to prevent the potential spread of these weapons and associated knowledge.

Shortly after the dissolution, Senators Sam Nunn (D-Georgia), chairman of the Senate Armed Services Committee, and Richard Lugar (R-Indiana) led a team of senators to the now Former Soviet Union (FSU) to devise possible ways of assisting them in reconstruction. The visit eventually resulted in the crafting, passage and enactment of the Freedom Support Act of 1992. Unofficially titled the Nunn-Lugar program, the Act entailed the following:

- the use of \$800 million out of the Pentagon's budget to help the FSU dismantle their nuclear arsenal and other WMD;
- use of \$190 million for the transportation of nuclear weapons from other FSU states back to Russia, the building of storage facilities, and the use of science centers to employ weapons experts;
- the President's use of \$100 million in security assistance funds to help dismantle and halt proliferation of NBC weapons world-wide;
- the use of \$40 million in defense funds to support international nonproliferation efforts. [Ref. 25:p. 526]

The legislation described above was officially titled the Department of Defense Cooperative Threat Reduction (CTR) Program. From the years 1992 to 1996, the Congress provided roughly \$1.5 billion to fund the objectives mentioned above and other related matters. Nearly 75 percent of these funds has been allocated to the nuclear portion of nonproliferation, and chemical weapons and other issues have received approximately 12 percent, or \$180 million. [Ref. 26:p. 2]

### **3. Effects on the Department of Defense**

The DoD has traditionally been mainly concerned with winning wars. This meant being prepared to fight and win on battlefields where NBC weapons may be employed. Stopping the proliferation of these weapons fell to agencies such as the State Department, Central Intelligence Agency, and U.S. Customs. The beginning of the DoD CTR program meant new roles and missions for the Department of Defense. In addition to continuing preparations for NBC warfare, the DoD was now tasked and funded to stop the spread of WMD wherever it was occurring.

The DoD's largest and most immediate concern in this area was the destruction of Russia's chemical weapons stockpile before it could spread into the hands of enemies. The main thrust of this effort was to provide pilot chemical weapons destruction facilities in order to "gain sufficient design and operational data to obtain approval to expand the facility's industrial capabilities to reach the full-scale capacity." [Ref. 27:p. 18] From 1992 until the present, the DoD has become more involved and actively engaged in counterproliferation and nonproliferation activities.

## **C. INTERNATIONAL STANDARDS**

### **1. The Biological Weapons Convention of 1972**

Biological weapons were first renounced at the 1925 Geneva Protocol. The U.S. maintained a stockpile of biological weapons until its own renunciation and subsequent destruction of them beginning in 1969. The Biological Weapons Convention (BWC) took place in 1972 under U.S. leadership, and required all signatories "to destroy, or to divert to peaceful purposes...all agents, toxins, weapons equipment, and means of delivery." [Ref. 28:p. 7] After signature by 118 countries, the Convention went into force in 1975. [Ref. 29:p. 6]

The original 1972 BWC had several provisions. Zachary Selden of Business Executives for National Security describes the provisions of the original BWC as merely requiring the parties to "consult and cooperate with the UN Security Council with regard to complaints." These weak measures, coupled with the stipulation that all parties may conduct research on biological agents for defensive purposes, enfeebled the original treaty." [Ref. 30:p. 6] The Convention underwent four review conferences which are briefly described in Table 2.3.

<b>First Review Conference (1980)</b>	<ul style="list-style-type: none"> <li>• Established right of each State Party to request a meeting of experts.</li> <li>• Established Confidence Building Measures (CBMs).</li> </ul>
<b>Second Review Conference (1986)</b>	<ul style="list-style-type: none"> <li>• Strengthened CBMs, including exchange of data on biological weapons-related research and reports on suspicious outbreaks of disease.</li> <li>• Promoted contacts between scientists in related fields.</li> </ul>
<b>Third Review Conference (1991)</b>	<ul style="list-style-type: none"> <li>• Crafted declarations of domestic legislation related to biological weapons.</li> <li>• Created the Verex group to design a verification regime.</li> </ul>
<b>Fourth Review Conference (1996)</b>	<ul style="list-style-type: none"> <li>• Proceeds toward legally binding protocol.</li> <li>• Aim is to complete draft before 2001.</li> </ul>

Table 2.3. Review Conferences to the Biological Weapons Convention of 1972.  
After Ref. [29]

Despite the provisions of the Convention, the detection, interruption, and termination of biological weapons programs remain difficult at best due to the characteristics of the agents discussed above. This is evident in the fact that current sponsors of terrorism and suspected possessors of biological weapons programs such as Iran, Iraq, Libya, and North Korea are all signatories to the BWC. However, having this form of international standard in place may be better than having nothing to possibly deter other countries from pursuing programs.



## **2. Chemical Weapons Convention of 1993**

The Chemical Weapons Convention (CWC) opened for signature in 1993. The Convention “bans the use, development, production, and storage of chemical warfare agents and munitions and requires the destruction of all existing stocks and facilities for their production.” [Ref. 31] Although the U.S. was the initial sponsor of the Convention, at least 33 countries ratified it before the measure was presented before the Senate for ratification in 1997 [Ref. 32]. Hungary’s ratification of the CWC on October 31, 1996 meant that it would go into force 180 days later, or April 29, 1997, with or without U.S. ratification [Ref. 33].

The CWC ratification process caused a firestorm of debate in the U.S. Congress. Proponents and opponents alike sought experts to testify before the Senate on their behalf. The Clinton Administration called ratification of the Treaty “a top priority.” [Ref. 34] The opposition to the CWC was led by Senator Jesse Helms (R-North Carolina), Chairman of the Senate Foreign Relations Committee, and included some prominent senior retired military officers, such as General P.X. Kelly, former Commandant of the Marine Corps, Admiral Wesley McDonald, former Supreme Allied Commander Atlantic, and General Merrill McPeak, former Air Force Chief of Staff. In his April 8, 1997 testimony before the Senate Foreign Relations Committee, James Schlesinger, a former Secretary of Defense and Secretary of Energy, presented five main reasons why the Senate should not ratify the CWC. The five reasons presented were:

1. An interpretation of the treaty’s wording could ban the use of nonlethal chemicals such as tear gas for crowd control, potentially causing the military to resort to conventional firepower.
2. Article 10 of the treaty requires that signatories share defensive CW technologies, causing the U.S. to share such technology with adversaries.
3. Having a treaty in place would cause complacency among national defense leaders in maintaining strong CW defenses.

4. International inspection of chemical production facilities could lead to industrial espionage.
5. The treaty lacks verifiability and broad enforceability. [Ref. 35]

Additionally, in an April 16, 1997 editorial in the *Wall Street Journal*, John Yoo, an acting professor of law the University of California, Berkeley, contended that the CWC was unconstitutional due to several of its provisions involving search and seizure [Ref. 36].

In an attempt to gain passage and win over some of the Senate skeptics, the Clinton Administration attached 28 conditions to the CWC, which would dampen some of its more volatile measures. One of those conditions enables the U.S. to refuse to allow certain inspectors, from countries considered hostile, from entering into plants. Another condition states that the U.S. "could withdraw from the treaty if U.S. officials find it does not curb proliferation, or if it weakens U.S. defenses against chemical weapons." The Senate voted 74 to 26 in favor of ratification of the treaty. [Ref. 37]

Although international standards such as the Biological and Chemical Weapons Conventions provide rules which the signatory governments are expected to obey, the treaties may have little effect in curbing terrorist production, transportation, or use of these weapons. Terrorists, as well as some rogue governments, do not abide by international or any law which would otherwise undermine their efforts to spread terror. Dr. Oehler explained this point:

Though they include provisions that should aid in preventing the acquisition of WMD by terrorist entities, treaties such as the NPT (Nonproliferation Treaty), CWC and BWC will likely be of limited effectiveness in halting the acquisition of WMD technologies by groups determined to possess them. Even if the CWC had been in effect at the time Aum Shinrikyo began its CW program, Aum was purchasing only Schedule 3 production of chemical pesticides for use on its agricultural holdings. In addition, the Aum was in the process of establishing its own university and would have been able to purchase laboratory stocks of the same chemicals in Japan without attracting attention. [Ref. 38]

These treaties are not likely to end the proliferation and use of WMD world-wide. Therefore, the U.S. continued to take measures to protect its military and civilian populations from the threat posed by WMD terrorism.

## **D. LEGISLATION AND EXECUTIVE DIRECTION**

### **1. National Defense Authorization Bill for Fiscal Year 1994**

In the conference report of the FY-94 National Defense Authorization Bill, the Congress expressed concern over the nation's preparedness to respond to a terrorist incident involving WMD. Although no funding was authorized, in Title XVII – Chemical and Biological Weapons Defense, Section 1704 – “Sense of Congress Concerning Federal Emergency Planning for Response to Terrorist Threats,” the Congress directed the President to “strengthen interagency emergency planning by the Federal Emergency Management Agency and other appropriate federal state and local agencies” in detecting and responding to a terrorist WMD attack. [Ref. 39:p. 319]

### **2. National Defense Authorization Bill for Fiscal Year 1996**

Congress reaffirmed their concern and desire to move further along in ensuring the protection of U.S. citizens in 1996. Similar to 1994, the FY-96 authorization conference report did not authorize DoD funds for use in domestic preparedness. However, the bill did strengthen the DoD's ability to assist in domestic preparedness, bordering on direct intervention by the military.

In title III – Operations and Maintenance, Subtitle G – Other Matters, Section 378, the Congress amended Title 10 of the U.S. Code. During emergencies involving chemical and biological agents, the amendment allowed the DoD to provide training facilities, sensors, protective clothing, and antidotes to federal, state, or local law enforcement or

emergency response agencies if the Secretary of Defense determined such items were not available from another source. Section 379 continued in this vein by directing a joint report be written by DoD and DoE on "the military and civil defense plans and programs of the Department of Defense to prepare for and respond to the effects of an emergency in the United States resulting from a chemical, biological, or nuclear attack on the United States." [Ref. 40:pp. 103-104]

### **3. Presidential Decision Directive 39**

On June 21, 1995 President Clinton signed Presidential Decision Directive Number 39 (PDD-39) entitled "U.S. Policy on Counterterrorism." The original version of this document was classified until the National Security Council declassified selected portions and released them to the public on January 24, 1995. The memorandum was addressed to the following individuals:

- Secretary of State
- Secretary of the Treasury
- Secretary of Defense
- Attorney General
- Secretary of Health and Human Services
- Secretary of Transportation
- Secretary of Energy
- Administrator, Environmental Protection Agency
- Assistant to the President for National Security Affairs
- Director of Central Intelligence
- Director, United States Information Agency
- Chairman, Joint Chiefs of Staff
- Director, Federal Bureau of Investigation
- Director, Federal Emergency Management Agency

The wide range of backgrounds and agencies of the addressees indicates the broad spectrum problem which terrorism poses to the United States. [Ref. 41]

President Clinton clearly reaffirmed the U.S. policy on counterterrorism in the first paragraphs of the document, which stated:

It is the policy of the United States to deter, defeat and respond vigorously to all terrorist attacks on our territory and against our citizens, or facilities, whether they occur domestically, in international waters or airspace or on foreign territory. The United States regards all such terrorism as a potential threat to national security as well as a criminal act and will apply all appropriate means to combat it. In doing so, the U.S. shall pursue vigorously efforts to deter and preempt, apprehend and prosecute, or assist other governments to prosecute, individuals who perpetrate or plan to perpetrate such attacks.

We shall work closely with friendly governments in carrying out our counterterrorism policy and will support Allied and friendly governments in combating terrorist threats against them.

Furthermore, the United States shall seek to identify groups or states that sponsor or support such terrorists, isolate them and extract a heavy price for their action. [Ref. 42]

The unclassified sections of PDD-39 established several important points in regard to the U.S. policy on counterterrorism. First, President Clinton directed that the heads of all agencies take the necessary steps to ensure the protection of U.S. citizens and property. Second, the President emphasized that the U.S. will not allow its policies to be affected by terrorist acts. Third, an official response to terrorism was outlined, including lead agency responsibilities and interagency support required. Fourth, FEMA was tasked with ensuring the Federal Response Plan provides adequate preparation to deal with a WMD terrorist attack directed at large population centers. H. Allen Holmes highlighted these last two points in his March 21, 1996 testimony before the Senate Permanent Subcommittee on Investigations:

...(PDD-39) reaffirmed the lead agency concept with Department of State responsible overseas and Department of Justice, acting through the FBI responsible for domestic crisis management response operations. All other agencies will support the lead agency with personnel and equipment to assist in resolution of a terrorist incident...A significant new requirement identified in PDD-39 is the requirement for coordination between crisis and consequence management in resolving a terrorist WMD incident. The FEMA is identified as responsible for ensuring the Federal Response Plan is adequate in responding to the consequences of terrorism, to include terrorism involving WMD. [Ref. 43]

Although PDD-39 provided guidance to many federal agencies, it did not task the DoD with directly assisting in domestic response to terrorist WMD incidents.

#### **4. 1996 Anti-Terrorism Bill**

At the time the President was signing PDD-39, the Congress was crafting its own version of legislation dealing with combating terrorism. In what has been referred to as both the Anti- and Counterterrorism Package, the legislation strengthened U.S. policy toward terrorists in the areas listed below.

- Fundraising – limited foreign groups identified as having terrorist ties from raising funds in the U.S.
- Exclusion/Deportation – allowed U.S. to deny visas to, deport, and shield evidence about suspected terrorists.
- Victim Restitution – provided federal funds to the survivors and families of the Oklahoma City bombing, as well as future terrorist incidents.
- Counterterror Funds – provided \$1 billion over four years to help federal law enforcement agencies fight terrorism.
- New Offense/Penalties – expanded the definition of and increased the penalties for terrorism.
- Tagging of Explosives – required all U.S. manufactured plastic explosives to be tagged, allowing for easier identification at the crime scene.
- NBC Weapons – expanded federal prohibitions against trafficking in nuclear materials; broadened federal jurisdiction over biological agents; imposed new controls on deadly human pathogens; criminalized the use of chemical weapons within the U.S. or against its citizens abroad.
- Airline Security – Tightened measures pertaining to foreign carriers at U.S. airports. [Ref. 44:p. 1045]

The bill was originally introduced in the Senate in June 1995. However, gun rights groups and civil rights groups joined forces to protest against several provisions. Their argument was that the bill gave too much power to federal law enforcement authorities, especially in the wake of the incident at Waco, Texas where the FBI and ATF were involved in the destruction of the Branch Davidian cult compound. [Ref. 45] Representative Bob Barr (R-Georgia) led the opponents of the clause which would allow the military to intervene in response to terrorist WMD attacks, and was successful in

removing the clause from the final signed version. Although the bill was held up for almost a year, the President signed it into law on April 24, 1996.

## **E. SUMMARY**

In the years which followed the collapse of the Soviet Union, the United States took measures to strengthen its defenses against what was quickly becoming the largest national security threat – the proliferation of WMD. Notwithstanding the provisions of the Biological Weapons Convention of 1973 and the Chemical Weapons Convention of 1993, chemical and biological terrorism posed a major threat to the U.S. and other countries world-wide. Terrorism was becoming much more lethal, as witnessed through unprecedented attacks on U.S. soil, and a chemical terrorist attack in the Tokyo Subway.

Over 85 years of experience in defending against biological and chemical weapons and 50 years experience in nuclear defense made the DoD the most knowledgeable and resourceful organization to deal with incidents involving them. Even though the President signed PDD-39 and the 1996 Counterterrorism Bill, through May of 1996, the DoD still had not been legally tasked with providing assistance to agencies in responding to terrorist attacks using WMD. That would change, however, at the hands of the Congress during the FY-97 National Defense budget formulation process.

### **III. BUDGETING FOR THE DEPARTMENT OF DEFENSE DOMESTIC PREPAREDNESS PROGRAM**

The congressional budget process in calendar year 1996 marked the first time in U.S. history that the Congress officially tasked and funded the DoD to assist civilian agencies in consequence management in reaction to an NBC domestic terrorist attack. The Senate-initiated amendment became informally known as the DoD Domestic Preparedness Program in the Defense Against Weapons of Mass Destruction Act of 1996. Following a brief review of the federal budget process, this chapter delineates the history of this legislation, beginning with the President's FY-97 budget request and progressing through congressional action on the National Defense Authorization and Appropriations Bills.

The budget process for the domestic WMD defense legislation did not progress as single line item legislation normally would. There was no committee markup session focusing on policy requirements, to be followed by the committee-reported version of WMD legislation. Rather, the Nunn-Lugar-Domenici amendment was added to the committee reported version of the FY-97 National Defense Authorization Bill on the floor of the Senate. The addition took place after the House had debated, amended and passed its version of the National Defense Authorization and DoD Appropriations Bills. A time line depicting these events is shown in Table 3.1.

The amendment contained funds for Department of Energy (DoE) activities relating to domestic preparedness, as well as for counterproliferation of WMD. The funds for these DoE activities and counterproliferation are tracked as part of the original Nunn-Lugar-Domenici amendment, but are excluded from further analysis in order to focus on the DoD aspect of domestic defense against WMD.



<b>Date (1996)</b>	<b>Person(s)/Committee</b>	<b>Document</b>	<b>Action</b>
February 5	President	Budget Submission	Submitted
May 15	House of Representatives	Authorization Bill House Version	Passed
June 13	House of Representatives	Appropriations Bill House Version	Passed
June 26	Senators Nunn, Lugar, Domenici, and Others	Authorization Bill Amendment 4349	Introduced on Senate floor
June 27	Senate	Authorization Bill Amendment 4349	Passed
July 10	Senate	Authorization Bill Senate Version	Passed
July 17	Senators Nunn, Lugar, Domenici, and Others	Appropriations Bill Amendment 4453	Introduced on Senate floor and Passed
July 18	Senate	Appropriations Bill Senate Version	Passed
July 30	Conference Committee	Authorization Bill	Completed
August 1	House of Representatives	Authorization Bill Conference Report	Adopted
September 10	Senate	Authorization Bill Conference Report	Adopted
September 23	President	Authorization Bill	Signed
September 28	Conference Committee	Appropriations Bill	Completed
September 30	President	Appropriations Bill	Signed

Table 3.1. Time Line of Department of Defense Budget Events for Fiscal Year 1997.

## **A. THE BUDGET PROCESS**

At this point, a review of the federal budget process is warranted. The budget process begins with the President's budget submission each January. In the case of the FY-97 budget, that submission was in January 1996. The proposed budget for the DoD for the upcoming fiscal year is contained within this request.

Once the Congress receives the President's budget proposal, the Senate and House Budget Committees develop the Concurrent Budget Resolution. This document sets the total funding levels for defense for the upcoming fiscal year, taking a macro-level view of the overall process.

After the Concurrent Budget Resolution is finalized, the authorization and appropriations processes are set to begin. The House National Security Committee and Senate Armed Services Committee each develop their versions of the National Defense Authorization Bill for the upcoming fiscal year. The authorization bills specify programs to be funded and authorize overall spending. Once each committee has written and reported out their respective versions, the bills are debated in each chamber, amended and voted on. When the House and Senate have passed their versions, a conference committee meets to address the inevitable differences between them. When the conference agreement is complete, the Senate and House vote once again on this version of the bill, almost always approving it.

The procedure through the Congress is essentially the same for the National Defense Appropriations Bill, with the exception of the committees which have responsibility for writing it. The House and Senate Appropriations Committees have jurisdiction over the formulation of all appropriations bills. The appropriations bills make funding available for the programs set forth in the authorization bills.

Once the conference committee bills pass the Senate and Congress, they are sent to the President. The President may either veto the bills or sign them. Once he signs the bills, they are codified and made public law.

## **B. THE PRESIDENT'S BUDGET REQUEST**

The President's FY-97 budget request did not contain any funds for the DoD to implement a domestic preparedness program for defense against WMD. However, it did call for funding of several anti-terrorist and counterproliferation programs, most of which existed prior to the January 1996 request. The analysis below presents some of the highlights of the funding for agencies outside the DoD, indicating that the President was concerned with the threat of domestic terrorism and countering the proliferation of WMD.

### **1. Department of State**

The proposed budget for the State Department included a request for \$17,000,000 under the heading "Anti-Terrorism Assistance." This funding was to be used to assist law enforcement officials in foreign countries as part of the President's overall program to combat international terrorism. [Ref. 46:pp. 711-712]

### **2. Department of Justice**

The proposed budget for the Justice Department included a request for \$9,688,000, which stemmed from the Oklahoma City federal building bombing of 1995. The President intended these funds to remain available until expended for three purposes. First, the operating capability of any offices affected by the bombing or any domestic or international terrorist incident would be restored. Second, the funds would provide financial support to counter, investigate, or prosecute domestic or international terrorism,

including the funding of rewards. Finally, the money would cover the costs of performing terrorist threat assessments on federal buildings and agencies. [Ref. 47:pp. 628-629]

### **3. Former Soviet Union Threat Reduction – Department of Defense**

The Cooperative Threat Reduction program, initiated by the original Nunn-Lugar Amendment, discussed above, continued to be funded in 1996. The FY-97 request was for \$327,900,000, and was to remain available until expended. These funds were intended to assist the countries which comprise the Former Soviet Union to disarm, dismantle, and destroy WMD and related materials, thereby reducing the probability that these items will become available for use by terrorists. [Ref. 48:pp. 317-318]

## **C. THE AUTHORIZATION PROCESS**

### **1. The House of Representatives**

#### ***a. House National Security Committee report***

The House National Security Committee Report on the FY-97 National Defense Authorization Bill is dated May 7, 1996. This date is significant because the Report and House bill were published more than seven weeks prior to the date that the Nunn-Lugar-Domenici legislation was presented on the Senate floor. Clearly, the Committee was not influenced by Senate action when it considered the issue of domestic defense against WMD.

The House National Security Committee did not incorporate any sections pertaining to domestic preparedness in its version of the Authorization Bill. However, the committee report addresses the issue under the title, "Chemical-biological defense—counter-terror and crisis response," under title II, Research, Development, Test and Evaluation (RDT&E), Defense-wide.

The report begins with a reference to the National Defense Authorization Act of 1994, which stated the following:

The President should strengthen Federal interagency planning by the Federal Emergency Management Agency and other Federal, State, and local agencies for development of a capability for early detection and warning of and response to (1) potential terrorist use of chemical or biological agents or weapons; and (2) emergencies or natural disasters involving industrial chemicals or the widespread outbreak of disease. [Ref. 49:p. 122]

The members emphasized the repeated attempts of the Congress to raise the importance of the domestic preparedness issue.

Referring to the March 12, 1996 hearings of the Military Research and Development Subcommittee, the members expressed concern over the nation's ability to respond to an emergency involving WMD. In the report, the members claimed that local agencies are utterly unprepared to deal with an attack involving chemical or biological weapons. The testimony revealed major shortcomings in three specific areas. First, local agencies are short on training and resources. Second, very few highly specialized response teams, protective equipment, or antidotes exist. Third, local medical teams are not trained to handle casualties resulting from chemical weapons injuries.

The Committee recommended that the SecDef assess the advisability of establishing a program for enhancing the capability of DoD to assist state and local agencies. The SecDef was directed to report back to the committee by September 30, 1996 on assessments and recommendations. Further, the Committee increased authorization for PE 65760D by \$12,000,000. Because Program Element Number 65760D in any other federal documents and the House National Security Committee called for an increase in PE 65160D could not be located in the FY-98 budget, the conference report from FY-97 is assumed to be misprinted. The increase in \$12,000,000 is assumed to be for PE 65160D, counterproliferation support program. [Ref. 50:p. 123]

### ***b. House Floor Actions***

On the House floor, Representative Gene Taylor (D-Mississippi) proposed an amendment to Subtitle B – Program Requirements, Restrictions, and Limitations under Title II - RDT&E, Defense-wide which applies to defense against WMD. The amendment added section 223 to the above subtitle and stated:

Not later than 15 days after the date of the enactment of this Act, the President shall submit to Congress a certification in writing stating specifically whether or not the United States has the capability (as of the date of the certification) to prevent the illegal importation of nuclear, biological, or chemical weapons into the United States and its possessions.  
[Ref. 51:p. H5028]

The amendment, part of a larger “en bloc” legislative addition, passed by unanimous consent. No other arguments concerning preparing the country for WMD defense were made. On May 15, the House passed its version of the Defense Authorization Bill by a vote of 272 – 153.

## **2. The Senate**

### ***a. Armed Services Committee Report***

Like the House Committee version of the Authorization Bill, the version reported out by the Senate Armed Services Committee does not contain a specific section addressing chemical and biological terrorist attacks. There are, however, related committee comments in the Title II, RDT&E section of the report under Subtitle B, Program Requirements, Restrictions, and Limitations, Section 221 – Counterproliferation Support Program. Under the heading “Emergency Preparedness and Response,” the committee stated that the administration has placed high priority on preventing and combating the proliferation of WMD. Reference to the Tokyo subway terrorist attack was made, and the committee recapped its 1994 direction that the President take steps to insure the U.S. has proper response plans in place in case of a similar attack. At this point, the

committee seems to have expressed a sense of frustration over the inadequate planning that had taken place up to this point in time, pointing to interagency conflicts as a possible explanation. A reference to Presidential Decision Directive 39, discussed in chapter two of this thesis, is also made, in order to highlight the fact that an interagency organization plan had been directed.

The Senate Armed Services Committee recommended \$5,000,000 in defense-wide O&M funds for “a comprehensive assessment to address responsibilities and potential contributions of each federal agency and department.” [Ref. 52:p. 124] The report also directs the DoD to comply with the FY-96 Defense Authorization Bill by submitting a report on “...the Department’s plans and programs to respond to the terrorist use of chemical, biological, radiological or nuclear weapons and agents.” [Ref. 53:p. 124]

***b. Nunn-Lugar-Domenici Amendment***

On June 26, 1996, Senators Nunn, Lugar, Domenici, and others co-sponsored an amendment, numbered 4349, to the National Defense Authorization Bill for FY-97 entitled “Defense Against Weapons of Mass Destruction.” Appendix A shows the amendment and its sections as presented on the Senate floor. The amendment resulted from a series of hearings held by the Senate Governmental Affairs Permanent Subcommittee on Investigations, the Senate Intelligence Committee, and the House National Security Committee Research and Development Subcommittee in February and March 1996 on the topics of terrorism and the proliferation of WMD. Three main themes prevailed throughout the two months of testimony before these committees. First, the lethality of terrorist activity is increasing world-wide, and attacks on U.S. soil have already been accomplished. Second, the proliferation of WMD is increasing world-wide, and the affordability and ease-of-manufacture of chemical and biological weapons make them

likely terrorist weapons. Third, exercises have shown that the agencies and plans currently in place to handle domestic disasters are inadequate to deal with a terrorist attack using WMD.

The amendment authorized a total of \$255,000,000, of which the DoD would receive \$150,000,000, the DoE would receive \$85,000,000, and \$20,000,000 would be transferred to a fund to help assist the FSU demilitarize their WMD. Table 3.2 depicts the amendment section, amount, agency, account from which the funds would be provided, and purpose of the funds. As compared with the sections outlined in Appendix A, Table 3.2 indicates that 14 of the amendment's 30 sections contained funds. [Ref. 54]

Of the \$150,000,000 earmarked for the DoD, \$65,000,000 was for domestic preparedness programs. The remaining \$85,000,000 would be used for such things as domestic and foreign border guard assistance, control of fissile materials in Russia, and the elimination of plutonium production in Russia.

The amendment represented no new authorization of funds to either the DoD or the DoE for the programs outlined, with the exception of \$10,000,000 of DoD funding for counterproliferation R&D. Instead, the amendment provided for a shifting of funds within the Authorization Bill, from the O&M and RDT&E accounts, which was pending passage by the Senate.

Senators Nunn, Lugar and Domenici, the amendment's primary sponsors, Provided the majority of debate that ensued on the Senate floor when the amendment was introduced. Senator Nunn lead off the debate on June 26<sup>th</sup> by stating the importance of the topic with which the amendment deals:



<u>Section</u>	<u>\$ in millions</u> <u>\$ amount</u>	<u>DoD/DoE</u>	<u>Account</u>	<u>Purpose</u>
1311	35	DoD	O&M	Emergency Response Assistance Program
1312	15	DoD	O&M	NBC Emergency Response
1312	15	DoE	**	NBC Emergency Response
1314	15	DoD	O&M	Emergency Preparedness Exercises
1321	15	DoD	O&M	U.S. Border Security Assistance
1322	10	DoD	New \$	Non/Counterproliferation R&D
1322	19	DoE	**	Non/Counterproliferation R&D
1325	15	DoD	O&M	International Border Security Assistance
1331	10	DoD	CTR*	Materials Protection, Control and Accounting (MPC&A)
1331	15	DoE	**	MPC&A
1332	10	DoE	**	Verification of Dismantlement and Conversion of WMD Facilities in Former Soviet Union (FSU)
1333	16	DoD	O&M	Elimination of Plutonium Production in FSU
1334	15	DoD	O&M	Industrial Partnership to Demilitarize WMD Production Facilities in FSU
1334	20	Transfer	Transfer	Industrial Partnership to Demilitarize WMD Production Facilities in FSU
1335	20	DoE	**	Lab-to-Lab Program to Improve Security of Materials in FSU
1336	6	DoE	**	Security of highly enriched uranium in FSU
1337	2	DoD	O&M	Military-to-Military Relations with FSU
1341	2	DoD	RDT&E	National Coordinator on Nonproliferation

\* CTR - DoD Cooperative Threat Reduction Program funds.

\*\* indicates DoE funding designated to be taken from Title XXXI – DoE National Security Programs

Table 3.2. Funds in the 1996 Nunn-Lugar-Domenici Defense Against Weapons of Mass Destruction amendment.

...this amendment deals with one of the most urgent national security problems America faces today. That is the threat of attack on American cities and towns by terrorists, malcontents, or representatives of hostile powers using radiological, chemical, biological, or nuclear weapons.  
[Ref. 55]

Senator Nunn discussed the World Trade Center bombing, the Tokyo subway attack, and the Oklahoma City bombing in setting the stage for the amendment's provisions. He stated that the focus was to provide the following to Federal, State and local law enforcement officials: 1) DoD and DoE expertise; 2) training; and 3) detection and protective equipment. [Ref. 56:pp. S6988-S6990]

Senator Lugar next addressed the Senate in a statement similar to Senator Nunn's. In addition to addressing the Tokyo and World Trade Center terrorist attacks, Senator Lugar added statements about the radiological device which Chechen rebels placed in a Moscow park in November of 1995. After this brief discussion about current threats, he stated that the three main avenues of defense are prevention, deterrence, and crisis and consequence management. Senator Lugar expressed his displeasure with the federal attempts at defense so far, stating that, "the federal government has done too little to prepare for a nuclear threat or nuclear detonation on American soil, and even less for a biological or chemical threat or incident." Senator Lugar concluded his statements by claiming that the Nunn-Lugar-Domenici amendment is an appropriate place for the federal government to begin developing and employing plans to counter the chemical and biological threat. [Ref. 57:pp. S6990-S6992]

Senator Domenici spoke on the Senate floor next, and his remarks focused on the amendment's provisions to enhance the DoD CTR program through new initiatives and increased funding. However, he also addressed the chemical and biological domestic

preparedness issue by describing a dismal scenario which a biological terrorist incident in the continental U.S. could cause.

Senators Strom Thurmond (D-South Carolina) and John Warner (R-Virginia) were the only individuals to speak out against portions of the amendment. Senator Thurmond, Chairman of the Senate Armed Services Committee, expressed concern over funding being removed from the DoD budget in order to increase the CTR program. He did not, however, speak out against any of the domestic preparedness provisions of the amendment.

Senator Warner highlighted the amendment's resurrection of a clause concerning direct military intervention in domestic affairs in the case of a WMD terrorist incident. The measure was removed from the 1996 Anti-Terrorism Bill in conference, due to ardent opposition in the House backed by both the National Rifle Association and the American Civil Liberties Union. The Nunn-Lugar-Domenici initiative would amend Title 10 of the U.S. Code to allow the military to intervene in domestic affairs, including the arrest of civilians in extraordinary circumstances. Senator Warner, however, did not speak against this particular provision, but confirmed that it was brought back as part of the current amendment. On the following day, June 27<sup>th</sup>, more statements were made on the Senate floor, with most of the members speaking in support of the amendment. Senator Nunn officially added Senators Joseph Biden (D-Delaware), Phil Gramm (R-Texas), and Orrin Hatch (R-Utah) as cosponsors of the amendment, indicating increasingly bipartisan support.

Senator Arlen Specter (D-Pennsylvania) gave a scathing report of the federal government's counterproliferation efforts by stating:

I also believe that the administration has not done nearly enough to prevent the spread of these weapons...we have a tremendously unwieldy U.S.

Government bureaucracy for combating proliferation...some 96 departments, agencies and other organizations have responsibility in this area. [Ref. 58:p. S7075]

This statement by Senator Specter provided sound argument for the title in the amendment calling for a National Coordinator on Nonproliferation matters.

Senator John Glenn (R-Ohio), however, criticized the amendment's provision for a National Coordinator. He protested against the absence of provision for the individual to be confirmed by the Congress. He claimed that a person who will wield so much power across so many agencies on such an important and high-level issue rates confirmation.

Senator Russell Feingold (D-Wisconsin) provided what was perhaps the most arduous opposition to a specific section of the amendment. Keeping in line with his opposition to the similar proposal in the 1996 Anti-Terrorism Bill, Senator Feingold vehemently protested the portion allowing the military to directly intervene in domestic affairs, including arrest of civilians in extraordinary circumstances. He stated, "I could not support such an exception to the Posse Comitatus law, the 1878 statute which limits the role of the military in domestic law enforcement activities. I fundamentally do not believe we should give the military arrest powers in the United States." [Ref. 59:p. S7078]

One of the most significant facts about the Nunn-Lugar-Domenici amendment is the ease with which it passed on the Senate floor. The two days of debate on June 26<sup>th</sup> and 27<sup>th</sup> did not produce many opponents speaking out against the measure. Its few opponents mainly contested the provisions beefing up funding for the DoD and DoE efforts to aid the states of the Former Soviet Union and allowing the military to arrest civilians. Despite objections in these areas, the amendment passed the Senate on June 27<sup>th</sup>, 1996 by a vote of 96-0, with four Senators absent [Ref. 60:p. S7080]. The amendment

officially became Title XIII – Defense Against Weapons of Mass Destruction of the Senate-passed version of the FY-97 National Defense Authorization Act.

### **3. Conference Committee**

#### ***a. Conference Actions***

As part of the FY-97 National Defense Authorization Bill, the Nunn-Lugar-Domenici amendment proceeded to conference following an overwhelming victory in the Senate. The conference committee essentially divided Title XIII of the Senate version into two major portions. The first part became Title XIV in the conference version, and retained the title “Defense Against Weapons of Mass Destruction.” The major sections of Title XIV are shown in Appendix B. The second part was combined with funds already requested under the DoD CTR program, and was consolidated under Title XV – Cooperative Threat Reduction with States of the Former Soviet Union. This action on the part of the conference conjures up several interesting issues.

First, all funds contained in the Senate version dealing with issues other than domestic defense were stripped out when the amendment became Title XIV in conference. As depicted in Table 3.3, this left the total DoD funding at \$97,000,000 of the Senate’s proposed \$150,000,000. However, the conferees transferred all but \$6,000,000 of the \$53,000,000 stripped out of Title XIV to Title XV, which dealt with DoD’s standing CTR program. These amounts are shown in Table 3.4. This thesis is concerned only with the DoD funds relating to domestic defense. [Ref. 61:pp. 816-821]

Second, some of the wording contained in several sections of the original Nunn-Lugar-Domenici amendment was retained in Title XIV despite the fact that these sections were to be funded in Title XV. For example, sections on the elimination of

<u>Section</u>	<u>\$ in millions</u>	<u>Purpose</u>
1412	35	Emergency Response Assistance Program
1413	15	NBC Emergency Response
1415	15	Domestic Emergency Preparedness Exercises
1421	15	U.S. Border Security
1424	15	International Border Security
<u>1441</u>	<u>2</u>	National Coordinator on Nonproliferation
Total	97	

Table 3.3. DoD Funds in Title XIV of the conference committee version of the FY-97 National Defense Authorization Bill.

<u>\$ in millions</u>	<u>Change from N-L-D</u>	<u>Purpose</u>
10	0	Counterproliferation Support program
10	0	MPC&A
15	0	Dismantlement of Chem/Bio facilities
10	-6	Elimination of Plutonium Production
<u>2</u>	<u>0</u>	Military-to-Military Program
\$47 total	-6 total	

Table 3.4. Select DoD funds in Title XV of the conference committee version of the FY-97 National Defense Authorization Bill.

plutonium production and the transportation of weapons-usable fissile and nuclear materials were retained in Title XIV. These sections more logically fall under Title XV because they deal with the states of the FSU.

Third, the funding for both Titles XIV and XV was discussed under the heading “Cooperative threat reduction program, domestic emergency assistance program, and programs for the defense against weapons of mass destruction” in the conference report, even though they were two distinct parts of the Authorization Bill. The discussions of the measures did not include separate paragraphs for each section, indicating that the issues involved were inextricably linked in the minds of those who crafted the legislation.

The provision allowing the military to directly intervene in response to a WMD terrorist attack and, under extraordinary circumstances, make arrests was still a highly contested issue in conference. When the measure was first proposed as part of the 1996 Anti-Terrorism Bill, one of its most vociferous opponents was Representative Bob Barr (R-Georgia). On July 18<sup>th</sup>, Mr. Barr voiced his concerns once again in a letter to House National Security Committee Chairman Floyd D. Spence (R-South Carolina), leader of the House conferees on the Authorization Bill. In the letter, Mr. Barr stated, “the potential for abuse is frightening, especially when you consider the egregious abuses of federal power that led to the Waco tragedy.” [Ref. 62:p. 2062]

#### ***b. Conference Language and Direction***

The conference committee expressed grave concern over the growing proliferation of and terrorist threat from WMD. The report identified the area of domestic preparedness as critical to the nation’s efforts to combat this by stating, “enhancing the nation’s ability to prevent, and, if necessary, to respond to a terrorist incident involving

nuclear, radiological, chemical, or biological weapons or materials is the cornerstone of this program.” [Ref. 63: p. 818]

Among the points contained in the conference report language were:

- a provision that requires the President to take immediate action to enhance the capability of the federal government to respond to such incidents and to provide enhanced support to improve the capabilities of state and local officials. The President was directed to report back no later than January 31, 1997.
- an expectation that the SecDef will work closely with the Secretary of Health and Human Services in providing DoD resources and expertise to the Office of Emergency Preparedness in the formation of emergency medical teams.
- a requirement for the DoD to establish at least one Chemical-Biological Emergency Response Team for rapid response to domestic terrorism.
- recognition of the U.S. Army’s Technical Escort Unit and Chemical Defense and Infectious Disease Medical Research Institutes and the U.S. Marine Corps’ Chemical/Biological Incident Response Force.  
[Ref. 64:pp. 818-819]

With the exception of the rearranging of funds between Titles XIV and XV, the Nunn-Lugar-Domenici amendment passed conference committee virtually unscathed, with several minor additions and deletions being made.

## **D. THE APPROPRIATIONS PROCESS**

### **1. The House of Representatives**

The House Committee on Appropriations reported the FY-97 Department of Defense Appropriations Bill on June 11, 1996. This means that the House took action on this bill over two weeks prior to the introduction of the Nunn-Lugar-Domenici authorization amendment on the Senate floor. Although the matter of terrorist attacks using WMD was discussed in the House report, the Committee made no funding available for domestic preparedness in response to an incident. However, within the “Procurement, Defense-wide” section of the report, the Committee included two paragraphs under the



heading, "Chemical/Biological Response Planning," which contain several items of interest.

First, like the House National Security Committee, the Appropriations Committee expressed deep concern over the federal government's ability to quickly and effectively respond to an attack. They referred to the Tokyo Subway attack, and stressed that prudent plans must be in place prior to an incident occurring. The Committee directed the SecDef make an assessment of the DoD's ability to assist local agencies in this area, and submit his findings in a classified report no later than March 1, 1997.

Second, the Committee included the words "appropriately and lawfully," alluding to the battle that took place over the clause in the 1996 Anti-Terrorism Bill that would have allowed the military to directly intervene and make arrests in the case of a WMD terrorist attack. The Committee stated, "In view of the Defense Department's considerable expertise in detecting, combating, and responding to chemical or biological incidents, the Committee wishes to be assured that this expertise can be appropriately and lawfully utilized should the need arise." The words "appropriately and lawfully" indicate that, even before the Nunn-Lugar-Domenici legislation proposed amending the U.S. Code to allow military intervention, some influential House members were concerned about another attempt to make it law. Additionally, the conferees directed that the SecDef's assessment, described above, include "current legal and organization hindrances that may obstruct the ability of Defense Department, National Guard, or other specialized personnel from effectively responding to such incidents." [Ref. 65:p. 139]

Third, the Committee report raises the possibility of using the National Guard to respond to an incident. The SecDef was directed to assess the capabilities of not only the DoD, but also the National Guard to assist in disaster response. The Committee requested

that the SecDef's assessment report "...expressly focus on the capabilities of the National Guard in assisting with this important activity." [Ref. 66:p. 139]

On the House floor, no significant debate on either funding or language for defense against WMD took place. The House passed its version of the Defense Appropriations Bill on June 13 by a vote of 278 – 126 [Ref. 67:p. D610].

## **2. The Senate**

Senate actions on the sections of the FY-97 Department of Defense Appropriations Bill concerning domestic preparedness for a WMD terrorist attack did not originate in the Senate Appropriations Committee. Neither the Bill or the Committee report, dated June 20, 1997, contain a single sentence pertaining to the DoD's role in domestic preparedness [Ref. 68:p. S7966]. This is probably explained by two factors. First, the DoD budget request did not contain any funds for the activity. Second, the Nunn-Lugar-Domenici authorization amendment was not adopted in time for the Appropriations Committee's normal mark-up activities.

On July 17, 1996, Senator Nunn introduced an Appropriations Bill amendment, numbered 4453, on the Senate floor. The amendment would provide \$150,000,000 for the DoD portion of the Defense Against Weapons of Mass Destruction amendment that was authorized in the FY-97 National Defense Authorization Bill. The funding did not represent an increase in the overall DoD Appropriations amount. Rather, the amendment provided for an offset of funds, of which \$12,000,000 would come out of RDT&E, Defense-wide and \$138,000,000 would come out of O&M, Defense-wide. In the words of Senator Nunn, "the total here is \$150,000,000, which is completely offset so this does not increase the bill in terms of total amount." [Ref. 69:pp. S7965-S7967]

The amendment's wording, a concise single paragraph, essentially matched the five major sections of the Nunn-Lugar-Domenici legislation, i.e.,:

- domestic preparedness;
  - interdiction of WMD and related materials;
  - control and disposition of WMD and related materials threatening the U.S.;
  - coordination of policy and countermeasures against proliferation of WMD; and
  - miscellaneous related programs, projects, and activities as authorized by law.
- [Ref. 70:p. S7965]

The floor discussion prior to the vote was again dominated by Senators Nunn, Lugar, and Domenici. Each essentially presented shortened versions of the justifications they gave in support of the Authorization amendment, highlighting the impending threat of an attack and the important function this funding will resource. No opposing arguments were presented and the amendment passed the Senate unanimously by roll call vote on July 17, 1997 [Ref. 71:p. S7970].

### **3. Conference Committee**

The appropriations activities for the various federal agencies for FY-97 culminated in an Omnibus Appropriations Bill, which provided funding for federal activities in a single piece of legislation. The DoD Appropriations Bill of 1997 was contained in Section 101(b) of this omnibus legislation. Funds earmarked for DoD defense against WMD, and more specifically, domestic preparedness were placed in Title VIII – General Provisions, Section 8128.

The total funding provided was \$100,000,000. According to the conference committee, the funds were to support, "defense against [WMD], including domestic preparedness, interdiction of [WMD] and related materials, control and disposition of [WMD] and related materials threatening the United States, coordination of policy and countermeasures against proliferation of [WMD], and miscellaneous related programs, projects, and activities." [Ref. 72:p. 955]

Of that total amount, \$10,000,000 was specifically set aside for the "Procurement, Marine Corps" account. According to the report, the funds, "shall be available only for the procurement of equipment that enhances the capability of the Chemical-Biological Incident Response Force (CBIRF) to respond to incidents of terrorism." [Ref. 73:p. 955] Although the CBIRF responds to terrorist incidents, its additional funding was not authorized by either the Senate-passed or conference committee versions of the amendment. Subtracting the \$10,000,000 from the total amount appropriated, \$90,000,000 remained to support the Nunn-Lugar-Domenici programs as contained in the conference-passed Authorization Bill. The conference committee on appropriations thus funded \$7,000,000 less than the \$97,000,000 of programs authorized in the FY-97 National Defense Authorization Bill for defense against WMD.

The conferees included a statement of several paragraphs which reveal some intriguing issues. First, the conferees indicate strong support for the Marine Corps' CBIRF unit, as the \$10,000,000 plus-up indicated, stating:

The conferees believe much can and should be done to transfer existing military chemical/biological warfare expertise and technology to our civilian "first responders" in charge of protecting the civilian population. The conferees applaud the first small step in this direction with the establishment of the (CBIRF)...which has rapid deployment capability. Coupled with its unique civilian advisory group, the CBIRF will become the nation's first completely self-contained chemical and biological response force. This bill includes \$10,000,000 to upgrade the equipment of this unit, including funds for prepositioned equipment at key domestic locations. [Ref. 74:p. 955]

Second, the conferees directed the SecDef, in conjunction with the CIA Director, the Attorney General, the Secretary of Energy, and the Administrator of FEMA, to submit a report. This report was to cover the following four areas:

1. types and characteristics of the current chemical and biological threat and the capability of civilian agencies to react to incidents;

2. unmet training and equipment requirements of first responders;
3. DoD chemical and biological warfare information, expertise, and equipment for civilian use; and
4. a detailed plan for DoD assistance to first responders.

The report, containing both classified and unclassified sections, was due to the Congress no later than May 1, 1997, and is discussed in chapter four. [Ref. 75:p. 956]

Third, the conferees, in language similar to that of the House Appropriations Committee, affirmed their belief that the National Guard is “well-suited for having a leading role in implementing a plan to provide training, technology...to local first responders.” [Ref. 76:p. 956]

## **E. SUMMARY**

The legislative process by which the Defense Against Weapons of Mass Destruction Act became law in 1996 was somewhat unorthodox. The measure was proposed on the Senate floor by Senators Nunn, Lugar, and Domenici as an amendment to the FY-97 National Defense Authorization Bill. The conference committee divided the original amendment into two different titles of the Bill which passed both chambers. Out of the \$150,000,000 of DoD funds contained in the Nunn-Lugar-Domenici amendment, the conference committee authorized \$144,000,000, with \$97,000,000 going into the Defense Against Weapons of Mass Destruction Act.

Similar to the authorization process, these same senators added an amendment to the FY-97 DoD Appropriations Bill on the Senate floor. The amendment, which unanimously passed the Senate, appropriated \$150,000,000 to the DoD for the programs contained in the Authorization Bill. The conference committee subsequently appropriated

two-thirds of the Senate's proposed amount, or \$100,000,000, of which \$10,000,000 was earmarked for the U.S. Marine Corps' CBIRF.

The Congress wanted the DoD to use the \$65,000,000 authorized for domestic preparedness to provide three things to federal, state, and local agencies: expertise, detection and treatment training, and equipment training. Senator Nunn explained all three in his statement before the Senate on June 26, 1996, stating:

First, it requires taking the expertise that has been built up over the years in both the Department of Defense and Department of Energy by successive budgets and making that expertise available—and rapidly available—to federal, state and local emergency preparedness and emergency response teams.

The [DoD and DoE] need to bring training to other officials in our state, local, and federal government in the detection, recognition, containment, and treatment of acute crises arising from the use of some form of [WMD] to those on the front lines in our major metropolitan areas.

DoD and DoE need to train them in the use of detection equipment and in the use of protective gear to avoid becoming casualties themselves. DoD needs to train emergency medical personnel to the appropriate treatment for triage, and the administration of antibiotics. [Ref. 77:p. S6989]

In addition to funding, the Congress also used the Nunn-Lugar-Domenici legislation as a vehicle to amend Title 10 of the U.S. Code. To circumvent the Posse Comitatus law which traditionally prevented the military from becoming involved in domestic law enforcement, Title 10 now empowers the military to directly intervene in incidents involving WMD. To the chagrin of several congressmen, the law now permits the military to arrest civilians in extraordinary circumstances. However, the use of the military is subject to stringent measures and requires the request of the Attorney General as well as the concurrence of the Secretary of Defense. Further, the President must issue an executive order and proclamation to invoke the use of military forces in the case of terrorist attack. [Ref. 78:p. 47]

The measures on both the authorization and appropriations sides received little opposition in either chamber of Congress. Once approved by the President, the Defense Against Weapons of Mass Destruction Act of 1996 represented a historic moment in the face of the new threat from WMD. The DoD was now officially funded and lawfully obligated to become involved in the U.S. response to a domestic terrorist attack by an enemy using chemical, biological, nuclear, or radiological weapons.

## **IV. IMPLEMENTATION OF THE DOMESTIC PREPAREDNESS PROGRAM**

### **A. INTRODUCTION**

Subsequent to the passage and signing of the fiscal year 1997 National Defense Authorization and Appropriation bills, the DoD began a program to comply with the new federal statutes. Notwithstanding the fact that the DoD had been involved in the defense against chemical and biological weapons for roughly 80 years, the Department was not familiar with aiding in the NBC protection of the U.S. civilian population. The challenge at hand was to design measures to adequately aid emergency first responders and protect citizens without crossing the delicate line which separates sufficient assistance from a state of marshal law.

In the event of a WMD terrorist attack or accident involving nuclear, radiological, chemical or biological materials, the DoD would not comprise the first response units at the scene. Rather, those first response units would be from state and local law enforcement, fire, and rescue teams which normally answer emergency calls. The actions of these units are critical for several reasons. First, they will take initial actions in controlling further spread of a chemical or biological substance, treating victims, and limiting the effects of fear and panic on the population at large. Second, local first responders will assess the situation and provide information to determine what federal assets may be called upon to provide assistance. Third, actions of the first responders largely represent the United States' ability to cope with and control a situation involving WMD to both the domestic population as well as onlookers scattered throughout the World. The President of the International Association of Fire Chiefs, P. Lamont Ewell, highlighted this point by stating, "In the first three critical hours after a terrorist incident,



the public perception of the overall government antiterrorist response depends entirely on the organization and effectiveness of the local emergency service providers and their actions during the incident.” [Ref. 79] For the reasons stated above, it became apparent to the legislative sponsors of the 1996 WMD legislation that the emergency first responders should be the focus of the DoD’s effort.

Although funded through and coordinated by the DoD, the Domestic Preparedness Program is a partnership involving five other federal agencies. These agencies are the Department of Energy, Federal Bureau of Investigation, Federal Emergency Management Agency, Public Health Service, and Environmental Protection Agency. Building on well-established federal emergency management plans, such as the Federal Response Plan, the objective of the program is to “strengthen existing expertise with the training and expert assistance necessary to handle a nuclear, biological or chemical incident. Each locality will ultimately determine its own needs and, with assistance from federal partners, create its own preparedness plan.” [Ref. 80]

This chapter begins by comparing and contrasting NBC defense and domestic preparedness prior to continuing the description of the DoD program. The chapter outlines some of the major DoD agencies involved in the Domestic Preparedness Program and lists their responsibilities with respect to the overall program goals. Finally, DoD’s specific program implementation is discussed through three main areas of focus: training, access to federal assistance, and exercises.

## **B. NBC DEFENSE AND DOMESTIC PREPAREDNESS**

The fact that the U.S. has been involved in defending against biological and chemical weapons since World War I and nuclear weapons since World War II gives the nation expansive knowledge and an equipment base on which to capitalize when making domestic preparations for an attack or accident. However, the issues involved in NBC defense and domestic preparedness differ greatly in areas such as environment, focus, enemy, threat, law enforcement, retaliation, and preparation efforts. These differences are depicted in Table 4.1 and discussed in detail below.

### **1. NBC Defense**

The U.S. military has been involved in preparing for war in a chemical and biological environment and nuclear battlefield for roughly 80 and 50 years, respectively. The U.S. military is most likely to encounter an NBC environment while engaged in conflict overseas, where the focus will be to accomplish military objectives. The NBC defense environment is a known entity in that it has been studied and simulated through various training exercises. Although criticized in a General Accounting Office report in 1996 for insufficient emphasis on resolving existing NBC defense problems, the DoD possesses training infrastructures and equipment at bases, ships, and stations world-wide in an attempt to keep the armed forces in the best possible NBC readiness posture [Ref. 81].

When engaged by a force using NBC weapons, the military focuses on troop protection while maintaining the ability to maneuver and fight. The forces fight a known enemy, against whom both defensive and offensive measures may be taken to protect troops and equipment, while possibly coordinating preemptive strikes to prevent the

<u>TOPIC</u>	<u>NBC DEFENSE</u>	<u>DOMESTIC PREP</u>
Environment	Combat situation overseas	U.S. territory, populated area
Focus	Winning war; troop protection	Protect civilians, control panic
Enemy	Known	Unknown
Threat	Enemy with WMD: high	Unknown
International Law	Possible deterrent to WMD use	No probable effect
Retaliation	Overwhelming response likely	Difficult to identify perpetrator
Preparation	Good training/equipment	Limited resources
Training	Vast experience/facilities	No formal system in place

Table 4.1. Major differences between NBC Defense and Domestic Preparedness.

enemy from using NBC weapons. When facing an enemy who possesses NBC weapons, the threat is high, and doctrine directs commanders to take measures to deal with it.

International laws and standards such as the BWC and CWC are intended to deter the production and use of WMD. However, the treaties do not always accomplish the goal of deterrence. For example, Zachary Selden of Business Executives for National Security contends, “many states suspected of pursuing BW programs are signatories [to the Biological Weapons Convention]: Iran (1973), Iraq (1991), Libya (1982), and North Korea (1987).” [Ref. 82] Based on current United Nations sanctions against Iraq in response to their history of failing to cooperate with arms inspectors, any confirmed production or use of WMD might evoke a condemnation from the U.N., which may or may not halt the activities. Current U.S. policy vows a retaliation of overwhelming proportions in response to the use of WMD against U.S. forces or citizens.

## **2. Domestic Preparedness**

The challenges involved in domestic preparation and the current state of domestic preparedness stand in sharp contrast to the situation involving military preparedness in several important ways. Domestic emergency preparedness takes place within U.S. borders, focusing on the country's largest cities whose residents are unfamiliar with any type of combat environment. Although the U.S. has numerous superb intelligence agencies in place, the threat of an attack in any one place within the U.S. is largely unknown because of the uncertainty involved in predicting terrorist actions. Further, international laws and standards do not deter terrorists set on furthering their cause and inflicting destruction on the people of the U.S., because terrorists, as well as some governments such as those mentioned above, generally don't obey laws.

Once an attack has occurred, the focus is on treating and protecting the civilian population through actions like triage, treatment, crowd control, information dissemination, etc. These actions will take place without an armed enemy firing bullets and artillery in the midst of an NBC attack. The perpetrator(s) of the attack will most likely be unknown and difficult to identify due to the ease with which an attack could be launched in the case of chemical or biological weapons. Difficult identification of the enemy decreases the likelihood that retaliation could be executed in response to an attack.

State and local law enforcement and emergency response agencies have limited resources with which to deal with a WMD terrorist attack. The challenge of acquiring NBC defense equipment and knowledge is one of the primary focal points of the DoD Domestic Preparedness Program discussed below. Overcoming the difficulties in conducting training in the nation's population centers on a large scale basis presents another problem which the DoD has been tasked to aid in overcoming.

### **3. Similarities**

Despite the differences between NBC defense and domestic preparedness, a few similarities exist. First, two of the main initial actions in any NBC environment are detecting whether or not an NBC agent is present and identifying the substance to quickly determine the proper countermeasures. Second, both situations call for the protection of lives first and equipment second, regardless of whether they are DoD or civilian personnel. Finally, the equipment involved in dealing with attacks has applications in both military and domestic NBC environment.

## **C. RESPONSIBILITIES**

As one of many federal agencies in the executive branch of the government, the DoD is responsible for a small part of the overall challenge of responding to a terrorist WMD attack. The response issue is extremely broad and involves at least 11 other federal agencies. This section identifies where the DoD fits into the larger scheme of the federal plan to respond to domestic WMD attacks and discusses responsibilities within the DoD. Although the focus is not on federal agencies outside the DoD, the section briefly discusses a few of the duties of such agencies as they relate to the DoD in order to highlight the linkages which exist. Figure 4.1 depicts the program responsibilities within the DoD.

An important distinction is made between crisis management and consequence management as the terms apply to terrorist attacks within the U.S. The difference was described by Robert M. Blitzer, Chief of the Domestic Terrorism/Counterterrorism Planning Section of the FBI, when discussing federal NBC incident contingency plans:

The contingency plans emphasize coordination between all participants, and are particularly concerned with the bridge between the law enforcement crisis management activities and the consequence management implications of the crisis. Our first priorities are public safety and the preservation of

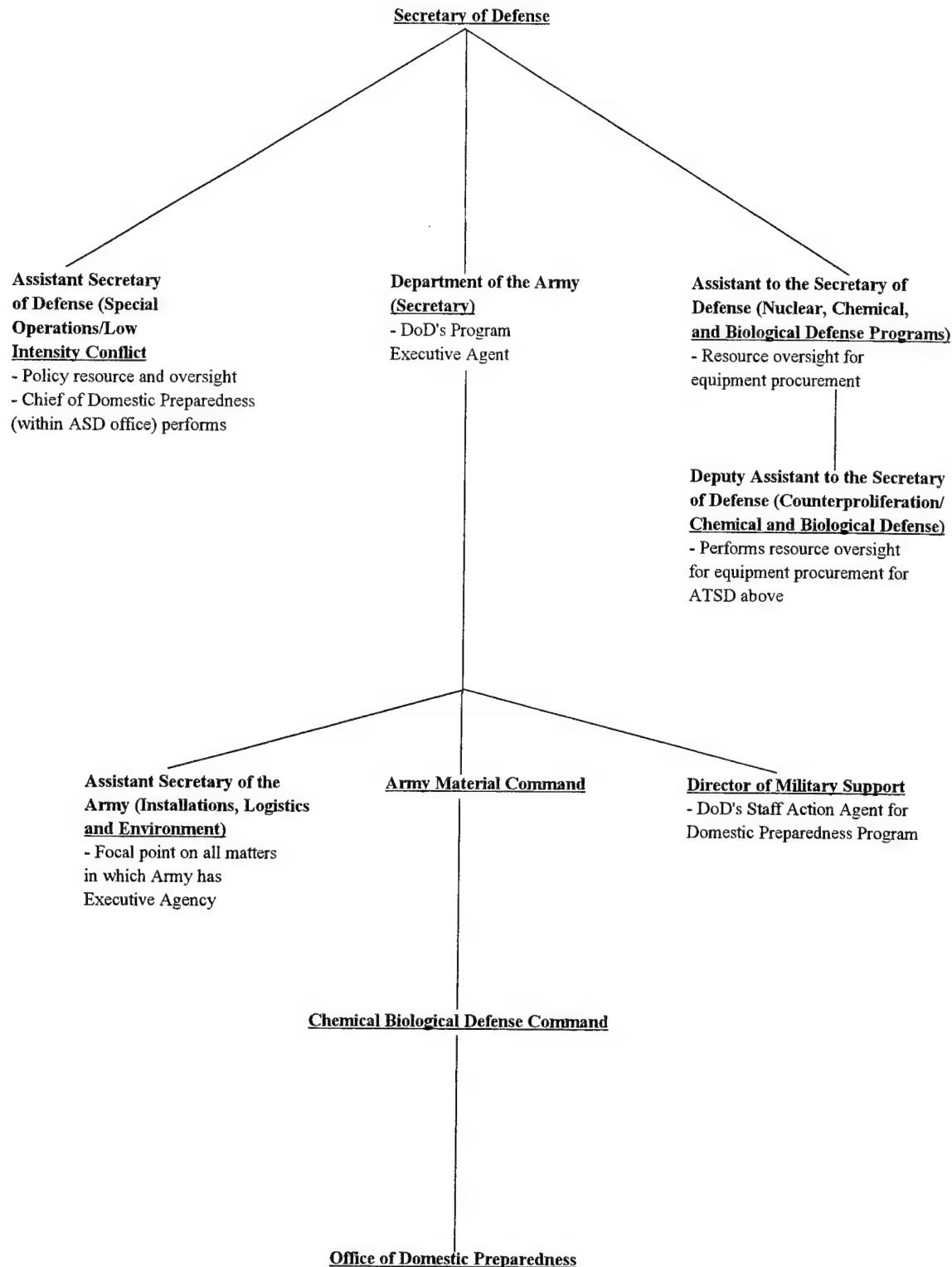


Figure 4.1. DoD Responsibilities for the Domestic Preparedness Program. After Ref. [7].

life. In a terrorist or criminal-related NBC incident, the FBI will assume the lead investigative and crisis management role, in close coordination with local law enforcement authorities, to successfully resolve the incident. Based on the specific details of an incident, when law enforcement responsibilities are resolved or no longer a principal priority, FEMA will assume consequence management responsibility for the incident. [Ref. 83]

Based on Mr. Blitzer's description, crisis management (attempts to resolve the incident) involves the criminal aspects of dealing with an attack, e.g., threat assessment, identifying the device/substance, searching for perpetrators, sealing off the area, controlling civil disturbance, and preventing further attacks. The FBI is the lead federal agency for all matters concerning domestic crisis management.

Consequence management (efforts to mitigate the incident), on the other hand, implies treating victims of the attack, searching for survivors in the case of an explosion, ensuring the containment of victims infected with disease, cleaning up the attack area, etc. The FEMA assumes the role of lead federal agency for consequence management. The Defense Against Weapons of Mass Destruction Act of 1996 mandates that the DoD, in conjunction with other federal agencies, become involved in training city emergency response agencies in contending with chemical and biological weapons in the performance of both crisis and consequence management, as discussed below.

### **1. Senior Interagency Coordination Group on Terrorism (SICG)**

Coordinating the counterterrorism efforts of many federal agencies has been an important topic as far back as November of 1993, when the Congress directed the President to strengthen interagency planning in regard to the threat posed by a potential attack on the continental U.S. by terrorists using WMD [Ref. 84]. The Congress re-emphasized this point throughout the Defense Against Weapons of Mass Destruction Act of 1996. Subsequently, the Senior Interagency Coordination Group on Terrorism was created in November, 1996 to "facilitate the interagency coordination of federal policy

issues and program activities in support of federal consequence management training initiatives concerning terrorist incidents involving WMD.” [Ref. 85] Figure 4.2 depicts the composition of the SICG. Building on the interagency structure directed by Presidential Decision Directive 39, discussed above and set forth in the Federal Response Plan, the SICG identifies, discusses, and resolves issues in regard to interagency strategy on how to best assist local first responders. The SICG has met on a monthly basis since October of 1996.

## **2. Assistant Secretary of Defense (Special Operations/Low Intensity Conflict)**

This individual serves as the principal staff assistant and civilian advisor to the Secretary of Defense for combating terrorism activities. As such, he has responsibility for policy resource and oversight of the DoD Domestic Preparedness Program. The individual in this office responsible for direct program supervision is the Chief of Domestic Preparedness. [Ref. 86]

## **3. Assistant to the Secretary of Defense (Nuclear, Chemical & Biological Defense Programs)**

This individual provides resource oversight for equipment procurement. This responsibility was subsequently delegated to his Deputy Assistant to the Secretary of Defense for Counterproliferation and Chemical/Biological Defense. [Ref. 87]

## **4. The Department of the Army (DoA)**

### ***a. The Secretary of the Army (SECARMY)***

This individual is largely responsible for the implementation of the DoD Domestic Preparedness Program. His duties are as follows:

....the Secretary of Defense designated the Secretary of the Army to serve as the Executive Agent for the coordination of DoD training assistance to federal, state, and local officials to better assist them in responding to threats involving chemical and biological weapons or related materials or technologies, including assistance in identifying, neutralizing, dismantling,



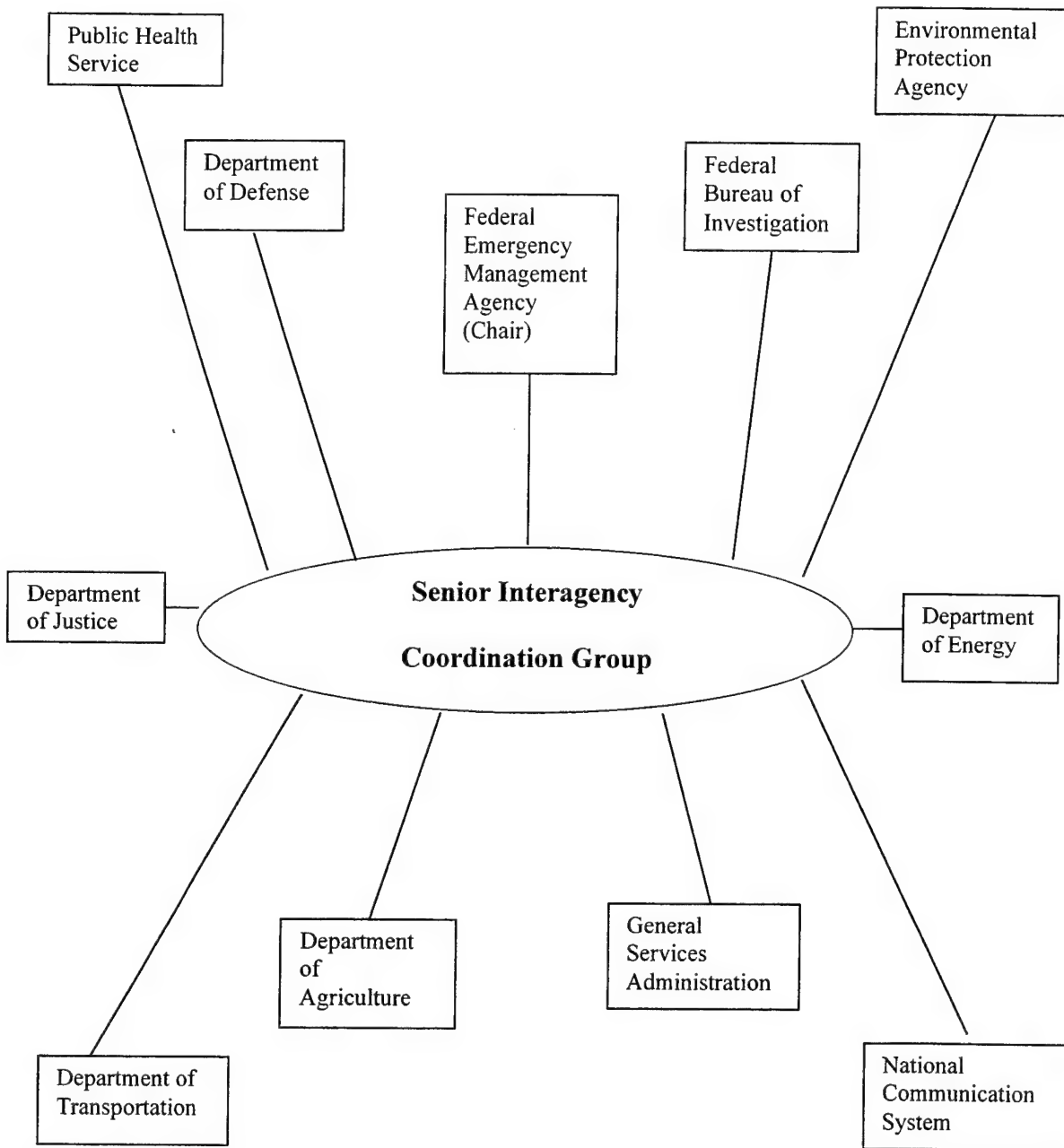


Figure 4.2. Organization of the Senior Interagency Coordination Group on Terrorism Defense. After Ref. [85].

and disposing of biological and chemical weapons and related materials and technologies. As the Executive Agent, the Secretary is responsible for developing the planning guidance, plans, implementation and procedures for the Domestic Preparedness Program. [Ref. 88]

The SECARMY subsequently appointed two offices within the DoA to assume major roles in the Domestic Preparedness Program. The Assistant Secretary of the Army (Installations, Logistics and Environment) was designated as the focal point for all matters in which the Army has executive agency. The Director of Military Support was appointed as the DoD's staff action agent for the program. [Ref. 89]

***b. Army Material Command (AMC)***

The Director, Army Material Command was given the authority by the SECARMY to appoint an office to direct the DoD Domestic Preparedness Program. The Director, AMC directed the Commander, Chemical Biological Defense Command (CBDCOM) to appoint an individual who would serve as the DoD Program Director with the primary responsibility for implementing the Defense Against Weapons of Mass Destruction Act of 1996 elements. Within the CBDCOM, the Office of Domestic Preparedness was created to ensure smooth implementation of the Program. [Ref. 90]

## **D. IMPLEMENTATION**

In the FY-97 National Defense Appropriations bill, the Congress required the DoD to submit a report outlining the program which would utilize funds contained in the Defense Against Weapons of Mass Destruction Act of 1996. The report's executive summary partially describes the basis for the information presented:

Over the past few years, several studies, discussions, workgroups, and focus groups have identified capabilities, specific requirements and shortfalls in requirements that are needed by first responders to meet the threat of a chemical, biological or nuclear terrorist attack. The findings of these studies and workgroups show a common trend in unmet training,

equipment, and other resources, such as technical information for first responders. [Ref. 91]

This report served as the primary source of information for this thesis concerning the methods by which the DoD is implementing the Domestic Preparedness Program. However, the facts presented in the report were confirmed with several individuals involved in legislative or implementation matters, including: a professional staff member of the Senate Armed Services Committee, the Public Affairs Officer at CBDCOM, and the Chief of Domestic Preparedness in the Office of the Assistant Secretary of Defense (Special Operations and Low Intensity Conflict), Counterterrorism.

In July 1996, during the time when the original Nunn-Lugar-Domenici amendment was being debated in Congress, the DoD was assisting in security at the high threat environment represented by the Olympic Games in Atlanta. Much of the focus of DoD's Domestic Preparedness Program resulted from the shortcomings identified throughout the Olympics. Among the lessons learned were:

- state and local first responders, as well as hospitals, crisis managers, transportation systems and communications networks, were not equally prepared for a WMD incident;
- coordination was inadequate between the people that handle crisis response and those that manage the consequences;
- lines of authority between crisis and consequence managers were not streamlined;
- cooperative relationships between federal and local and state authorities had not been developed;
- roles and responsibilities across local jurisdictional lines were not integrated; and
- local and state authorities' access to expert advice and technical assistance of federal agencies needed improvement. [Ref. 92]

The following describes the three areas which served as the DoD framework for implementation: training, access to federal assistance, and exercises [Ref. 93]. Further, it discusses the expenditure of the funds authorized and appropriated by the Congress.

## **1. Training**

The Department of Energy (DoE) conducts preparedness training for nuclear disasters in the U.S. The DoE trains civilian personnel, providing basic knowledge on how to respond to accidents involving nuclear or radiological materials. Therefore, it was unnecessary for the DoD to duplicate DoE's efforts, leaving the DoD to concentrate on the problems posed by chemical and biological weapons.

As required by title XIV of the FY-97 National Defense Authorization Act, the DoD initiated training programs in several different areas listed below. The May 1997 report to the Congress describes the thrust of four focus group meetings held during February 1997 to develop the training portion of the plan:

Firefighters, hazardous materials handlers, and on-scene incident commanders; emergency medical specialists and doctors; law enforcement officials; and 911 operators and call takers, as well as the appropriate federal agencies, participated in [the effort to develop training objectives]. In addition, a concurrent effort was initiated to identify existing NBC training modules within DoD and other federal agencies to fulfill these training needs. Concurrent with the effort to develop the performance objectives and to identify the training modules to support them, the DoD Program Director developed a discussion document to assist local governments [in] assess[ing] their level of training against stated performance objectives. The city's self assessment will drive the individual city's training plan. [Ref. 94]

Twenty-seven cities, listed in Table 4.2, were originally selected to receive federal training assistance, with Denver, Colorado as the pilot city, because it was the site of the Summit of Eight Conference on Terrorism in June of 1997. The goal of the Domestic Preparedness Program is to train 120 cities by the end of 1999 [Ref. 95]. Although all 27 cities received initial visits in FY-97, only six have completed training. For FY-98, the DoD plans to make initial visits to 22 additional cities and complete

Boston, MA	New York, NY	Philadelphia, PA
Columbus, OH	Baltimore, MD	Washington, DC
Indianapolis, IN	Atlanta, GA	Jacksonville, FL
Miami, FL	Memphis, TN	Houston, TX
Dallas, TX	San Antonio, TX	Phoenix, AZ
San Diego, CA	Los Angeles, CA	San Jose, CA
San Francisco, CA	Seattle, WA	Denver, CO
Kansas City, MO	Milwaukee, WI	Chicago, IL
Detroit, MI	Honolulu, HI	Anchorage, AK

Table 4.2. Original Cities Scheduled to Receive Initial Emergency Preparedness Training. After Ref. [104].

training for 31, including those for which the training cycle commenced during FY-97 [Ref. 96].

In commencing the training process upon arrival in each city, DoD personnel provide city executives with self-evaluation tools and inform them of the various forms of training available. The city executives determine the volume, format and content of the training they will receive. Then a federal interagency team conducts train-the-trainer type courses in three main areas: general awareness training, incident command procedures/operations, and technical level HAZMAT response, described in Table 4.3 below [Ref. 97]. To avoid redundancy with respect to existing emergency response procedures, the DoD will focus on “those aspects of response which are different from how each responder would react in a non-NBC event,” according to Mr. James Q. Roberts, Principal Director to the Deputy Assistant Secretary of Defense (Policy and Missions) [Ref. 98].

Throughout the training of the cities mentioned above, support will be provided in several different forms. Chemical and biological warfare information will be distributed by CD-ROM to facilitate wide dissemination and keep costs to a minimum. Internet

<b>General Awareness Training:</b> an introduction to the NBC terrorist threat.	
	<ul style="list-style-type: none"> <li>• descriptions of the types of chemical agents that can be used during an attack</li> <li>• characteristics of chemical and biological weapons</li> <li>• health effects of exposure to the agent</li> <li>• emergency response procedures during and following an incident</li> <li>• incident site organization</li> </ul>
<b>Incident Command Procedures/Operations:</b> designed for those individuals in charge of an emergency response.	
	<ul style="list-style-type: none"> <li>• equipment and procedures; on scene procedures for detection and identification; hazard and risk assessment</li> <li>• pre-incident planning and exercise based on an airport scenario</li> <li>• on-call Federal Response Plan briefs on types of federal assistance available</li> </ul>
<b>Technical Level HAZMAT Response:</b> designed for HAZMAT personnel.	
	<ul style="list-style-type: none"> <li>• special characteristics of NBC agents</li> <li>• unique measures and equipment necessary for NBC sampling and detection, and hazard and risk assessment</li> </ul>

Table 4.3. Types of Domestic Preparedness Training. After Ref. [97].

training packages will be posted for easy access to the information. Distance learning facilities already in place will be utilized to train agency officials on the intricacies of working within the complex interagency network.

Civilian first response agencies are severely limited by the lack of organic chemical and biological detection and protective equipment available for their use. Although the DoD may loan them equipment on request, this is unlikely on a regular or large scale basis due to the potential detrimental impact on DoD military unit NBC readiness. Problems are also posed by current Office of Safety and Health Administration (OSHA) regulations since the military-issue protective clothing do not meet OSHA standards and are thus unsuitable for use by civilian emergency responders. Each of the 27 cities initially slated for training have received or will receive \$300,000 worth of NBC equipment [Ref.

99]. These items consist mainly of detection equipment and protective gear in very limited quantities.

The Department of Health and Human Services (HHS), using DoD funding provided by the Defense Against Weapons of Mass Destruction Act of 1996, will assist the 27 selected cities in developing Metropolitan Medical Strike Teams (MMSTs). The DoD will assist in the “procurement of special antidotes and pharmaceuticals, initiation of necessary special equipment procurements, and training of selected personnel.” [Ref. 100] Each of the MMSTs will consist of specially trained medical personnel, whose purpose will be to accomplish the following:

- provide initial, on-site response;
- provide safe patient transportation to hospital emergency rooms;
- provide definitive medical and mental health care to victims;
- prepare patients for onward movement to other regions. [Ref. 101]

As recently as August 11, 1997, the city of Chicago was initiating its MMST. The actions were described in the Chicago Sun-Times:

Chicago is organizing a Metropolitan Medical Strike Team to treat victims of mustard gas, bubonic plague, nuclear bombs and other terrorist weapons. The strike team will be equipped with three terrorist-response trailers, each able to decontaminate 750 people per hour. There will be an arsenal of drugs to treat victims and “moon suits” to protect emergency workers. [Ref. 102]

## **2. Access to Federal Assistance**

One of the largest deficient areas for local first responders was in expertise on how to handle chemical and biological emergencies. City organic hazardous materials (HAZMAT) units are largely unfamiliar with handling chemical and biological weapons and substances. Since the DoD has considerable experience in this area, the logical step was to ensure that proper links existed for the local authorities to tap into the DoD

knowledge base. This was accomplished in several different ways, and can be classified under emergency and non-emergency categories.

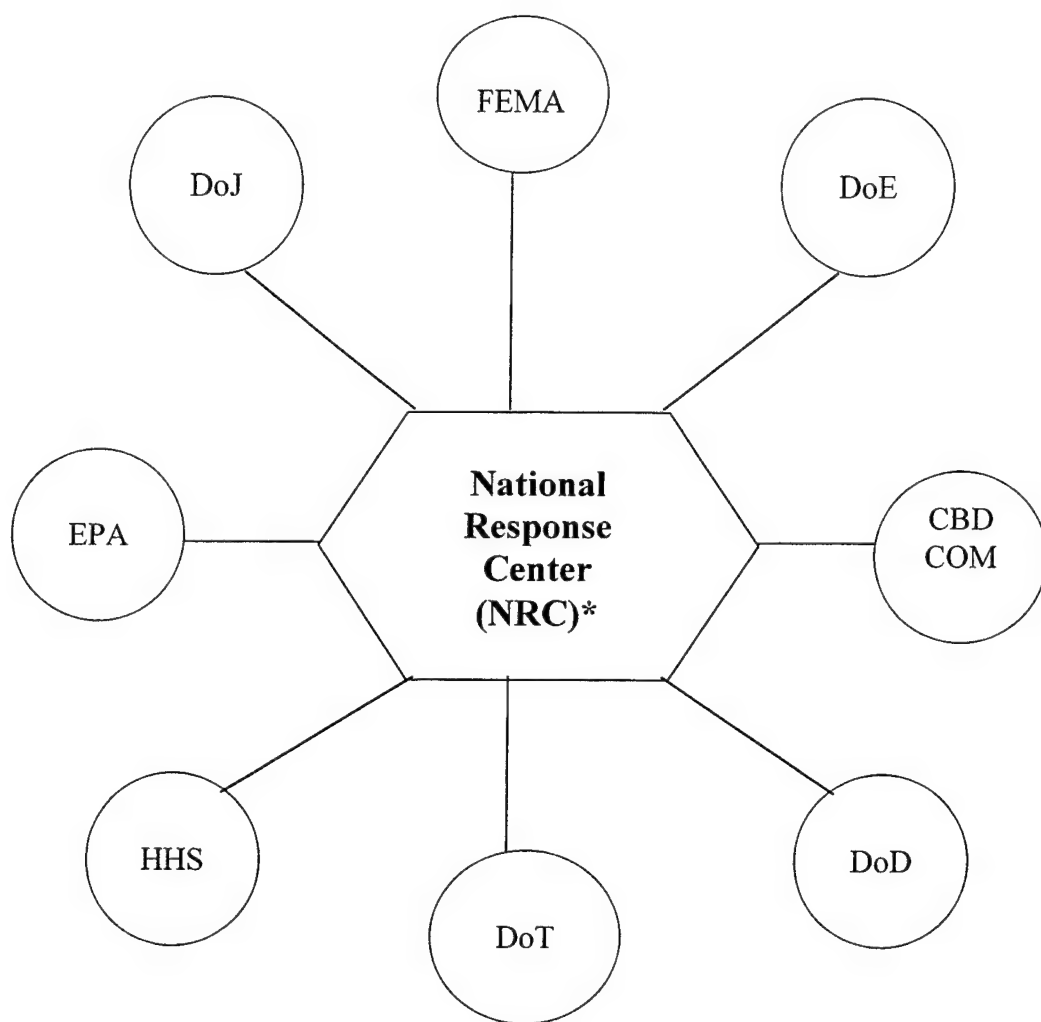
*a. Emergency Access*

A telephone hotline was established to allow state and local officials to quickly tap into expert chemical/biological advice and assistance resident within the DoD. The hotline was developed to link into the existing National Response Center (NRC), which will direct the caller to the appropriate federal agency, depending on the nature of the emergency. The organization of the hotline is depicted in Figure 4.3. Operational 24 hours a day, a direct link would be made, for example, between NRC, CBDCOM, and the US Army's Medical Research Institute for Infectious Diseases in the case of chemical or biological weapons, or between NRC and DoE in the case of nuclear weapons. [Ref. 103]

The DoD formed a Chemical Biological Rapid Response Team (CBRRT) under the purview of its Response Task Force to quickly respond on-scene to an attack. Upon request from either the FBI or the FEMA, the CBRRT would deploy to focus on crisis management, consequence management, or both. The composition of the CBRRT is situationally dependent, and could be comprised of personnel and equipment from the Marine Corps' CBIRF, the Army's Technical Escort Unit, or DoD Special Forces, for example. Table 4.4 shows DoD unit capabilities as they may be applied to the CBRRT.

The timeline for deployment is currently divided into three Tiers. Tier One is no later than 4 hours after notice (depending on geographic location) and would consist mainly of detection, neutralization, dismantlement, and disposal capabilities. Tier Two is no later than 18 hours after notice and would consist mainly of decontamination equipment, medical personnel and equipment, and perimeter entry control. Finally, Tier Three, 24-96 hours after notice, would provide specialized units as the situation dictates.





\* U.S. Coast Guard operates

Figure 4.3. Chemical Biological Hotline organization. After Ref. [103].

CAPABILITY	UNIT
Locate and examine unknown WMD device	<ul style="list-style-type: none"> <li>• Army Technical Escort Unit</li> <li>• 52<sup>nd</sup> Explosives Ordnance Disposal Unit</li> <li>• Other Selected DoD units</li> </ul>
Render safe an armed WMD device	<ul style="list-style-type: none"> <li>• Army Technical Escort Unit</li> <li>• 52<sup>nd</sup> Explosives Ordnance Disposal Unit</li> <li>• Other Selected DoD units</li> </ul>
Identify or evaluate WMD agents	<ul style="list-style-type: none"> <li>• Army Technical Escort Unit</li> <li>• Marine Corps Chemical Biological Incident Response Force</li> <li>• U.S. Army Medical Research Institute for Infectious Diseases</li> <li>• U.S. Naval Medical Research Institute</li> </ul>
Project dispersion of WMD agents	<ul style="list-style-type: none"> <li>• Defense Special Weapons Agency</li> </ul>
Track dispersion of WMD Agents	<ul style="list-style-type: none"> <li>• Defense Special Weapons Agency</li> </ul>
Provide medical advice on health impact of WMD	<ul style="list-style-type: none"> <li>• U.S. Army Medical Research Institute for Infectious Diseases</li> <li>• U.S. Naval Medical Research Unit</li> </ul>
Provide triage and medical treatment	<ul style="list-style-type: none"> <li>• Marine Corps Chemical Biological Incident Response Force</li> <li>• U.S. Army Medical Research Institute for Infectious Diseases</li> <li>• U.S. Naval Medical Research Unit</li> </ul>
Administer antidotes, vaccines and chelating agent	<ul style="list-style-type: none"> <li>• U.S. Army Medical Research Institute for Infectious Diseases</li> <li>• U.S. Naval Medical Research Unit</li> </ul>
Decontaminate equipment and other materials	<ul style="list-style-type: none"> <li>• Marine Corps Chemical Biological Incident Response Force</li> </ul>
Package and transport WMD devices and agents	<ul style="list-style-type: none"> <li>• Army Technical Escort Unit</li> <li>• 52<sup>nd</sup> Explosives Ordnance Disposal Unit</li> </ul>

Table 4.4. Select DoD Consequence Management Capabilities Related to Weapons of Mass Destruction. After Ref. [104].

Prepositioned equipment at several sites around the country will reduce the CBRRT's response time. [Ref. 104]

#### ***b. Non-Emergency Access***

Another telephonic link, called the Helpline, was established for use in situations where an emergency had not taken place, but access to general information about chemical and biological weapons was desired. The calls on the Helpline will be directed either to the Chemical Biological Database, which contains electronically accessible information, or to an expert who could answer further questions. The organization of the Helpline is depicted in Figure 4.4.

### **3. Exercises**

As conducting exercises to test a city's preparedness is a relatively new concept to the DoD, the exercise program will evolve as the process continues. The exercise program encompasses three main facets: train-the-trainers, systematic preparedness testing, and coordination and integration of the exercises.

First, the exercises will focus on training those city personnel who are responsible for the conduct of training within their respective agencies. Once this is accomplished, simulations with trainee involvement provide evaluation feedback to participants, reinforce former training concepts, and evaluate the training's effectiveness. [Ref. 105]

Second, two model cities will be used to conduct systematic preparedness testing.

The purpose of these was explained in the DoD report to the Congress:

The purpose of the test will be to conduct a systematic comprehensive evaluation of available and alternative concepts, procedures, approaches and equipment for responding to a range of terrorist WMD incidents in each city. The results of systematic preparedness testing would be to develop an integrated model or system...that could be applied throughout the nation at the federal, state and local levels. [Ref. 106]



New York City and Baltimore currently serve as the model cities described above. On 10 November 1997, New York City conducted a preparedness test involving release of a chemical agent at a mock political rally [Ref. 107].

Third, the exercise program will foster integration and coordination among the DoD and other agencies who currently conduct disaster preparedness exercises outside the arena of WMD.

Denver, Colorado was the first U.S. city to undergo the rigors of the DoD training and exercise program. The exercise involved more than 550 people, and sought to accomplish the following goals:

- immediate recognition of the incident by 911 operators or other first responders;
- proper order for and wearing of protective clothing by first responders;
- correct identification of the agent;
- immediate start of proper medical and decontamination procedures;
- successful teamwork between state and local officials and federal/military agencies; and
- successful medical mobilization efforts to prevent local hospitals from being overwhelmed in the event of mass casualties. [Ref. 108]

The Denver experience revealed the need for experienced trainers, well-grounded in practical emergency response procedures, in order to conduct effective learning sessions. Experience training personnel could lend significantly more credence to the instruction than trainers who could only provide the textbook answers to firemen, police officers, and Emergency Medical Technicians present. [Ref. 109]

#### **4. Funding**

Of the \$97,000,000 total authorized in the Defense Against Weapons of Mass Destruction Act of 1996, \$65,000,000 was authorized for use on the Domestic Preparedness Program, broken out in the following categories:

- \$35,000,000 - Emergency Response Assistance Program

- \$15,000,000 - NBC Emergency Response
- \$15,000,000 - Domestic Emergency Preparedness Exercises

The May 1, 1997 DoD report to the Congress stated that roughly \$52.6 million was provided for the Domestic Preparedness Program during FY-97. Those amounts were allocated as follows:

- the Emergency Response Assistance Program to include the training, assistance, expertise advice, *Hotline* and *Helpline* programs: \$16.4 million;
- the development and fielding of the Metropolitan Medical Strike Teams: \$6.6 million;
- the coordination of the NBC response capability to include the development and fielding of the CBRRT: \$9.8 million;
- the testing and preparedness for emergencies involving nuclear, radiological, chemical and biological weapons: \$9.8 million;
- the upgrade of equipment for the Marine Corps' CBIRF, including funds for prepositioned equipment at key domestic locations: \$10 million. [Ref. 110]

Written sources as well as the author's interviews with the SASC staff member and the CBDCOM Public Affairs Officer rarely agree on the total dollar amount which the DoD spent on the program in FY-97. The figures range from \$30 million to \$52.6 million, depending on which individual initiatives are included. For example an individual from the DoD may not include funds used by the HHS for medical strike teams, or someone from the Army may not include funds used by the Marine Corps' CBIRF. The inability to accurately assess the actual amount which the DoD spent prevented a determination of the difference between it and the \$65 million in authorized funds from the congressional legislation.

## **E. SUMMARY**

Spurred by the Defense Against Weapons of Mass Destruction Act of 1996, the DoD devised, for the first time in its history, a plan to assist U.S. cities in their efforts to prepare for a possible terrorist attack or other disaster involving nuclear, radiological, chemical, or biological substances. In devising the Domestic Preparedness Program, the DoD capitalized on existing disaster preparedness plans already in place at the national and local levels. The Program evolved into a partnership with five other federal agencies: the FBI, FEMA, EPA, PHS and DoE. All six agencies assumed roles in determining the manner by which the training plan should be established, but the agencies were not in complete agreement as to how implementation should be executed.

Charged with executing the DoD's portion of the Domestic Preparedness Program, the U.S. Army's CBDCOM created the Office of Domestic Preparedness through which a designated Program Director was to determine the Program's course and speed. A program was designed to allow the emergency response personnel of 27 of the nation's largest cities to decide what their needs were based on their current capabilities and future threats. Once accomplished, the DoD would lead an interagency training team to conduct the city's training. Cities may also access expertise and information through either the Chemical Biological Hotline in emergency situations or the Helpline in non-emergency situations. A DoD Chemical Biological Rapid Response Team was created to provide federal level response to emergencies when needed.

Assisting cities in domestic preparedness represents a paradigm shift from the environment of NBC defense within which the DoD is used to working. Delicate issues arise whenever the military becomes involved in civil affairs, because a fine line exists between keeping the peace and marshal law. Since the Domestic Preparedness Program

has existed as of this writing for roughly six months, it is still evolving and has yet to be implemented in the majority of the cities planned. The program goal is to implement training in 120 cities by the end of 1999. Mr. James Q. Roberts discussed the implications of the extended period of time it will take to train all of the cities:

Finally, the process...will take time – several years at a minimum, significant resources, including adequate funding, public education on the facts, and a deep commitment by the nation's leadership at all levels – local, state and federal – to create a system in the United States in which a WMD incident can be successfully managed with a minimum loss of life and physical damage. [Ref. 111]

Notwithstanding exercises and simulations, the real test will be when a domestic or international terrorist group launches a chemical or biological attack on one of the nation's population centers. Only then will the true effectiveness of DoD's program be quickly and radically exposed.





## V. CONCLUSIONS AND RECOMMENDATIONS

### A. PROBLEMS AND POLICY ISSUES

During an April 1997 address at the University of Georgia on the topic of terrorism, weapons of mass destruction, and U.S. strategy, Secretary of Defense Cohen made the following comments:

In this world of our adversaries – the future adversaries – they may search for an Achilles heel with a variety of creative means...terrorists who resort to nuclear, biological or chemical weapons to destroy the lives by the tens of thousands, hundreds of thousands; and this scenario of a nuclear, biological, or chemical weapon in the hands of a terrorist cell or rogue nation is not only plausible, it's really quite real.

While the NBC threat is real, the Secretary acknowledged that we do not yet have a national doctrine to respond to it. However, he said,

That is the very purpose of Nunn-Lugar II. This is the preliminary effort. I think we have neglected it for too long...we seem to respond to [the issue of domestic preparedness] when we see an act of terrorism...but always it takes some act of aggression, some misfortune, a great tragedy for somebody to say, "Why haven't we done something?" [Ref. 112]

In the summer of 1996, in the wake of the World Trade Center and Oklahoma City bombings, and Sarin gas attack on the Tokyo subway system, the U.S. Congress seemed frustrated over repeated, failed attempts to prompt the executive branch to ensure that the country was better prepared to face terrorists wielding WMD. Once the domestic preparedness provisions of the Defense Against Weapons of Mass Destruction Act of 1996 are fully implemented, measures will be in place to shore up U.S. cities' defenses against such attacks. The program, however does not end the need for future policy analysis and improvement. The program directed by the Congress faces several challenges.

First, dealing with terrorist attacks in the absence of a specific WMD threat is an extremely complicated and wide-ranging issue involving numerous federal, state, and local

agencies. When the element of WMD is combined with the conventional threat, the list of possible agencies involved swells to over 40 at the federal level alone [Ref. 113:p. 3]. Although disasters such as the World Trade Center and Oklahoma City bombings provided opportunities to test the effectiveness of current interagency plans, it became clear that problems existed. The formation of the Senior Interagency Coordination Group on Terrorism, described in chapter four, was a positive step toward ensuring effective cooperation on the part of the federal agencies involved. However, according to Suzanne Fournier, Public Affairs Officer at CBDCOM, challenges involving interagency communications are one of the larger difficulties the DoD has faced in implementing its portion of the legislation [Ref. 114].

Second, the DoD's funding support for first responder training and expert assistance is scheduled to be passed off to another federal agency, currently slated to be the FEMA, by the conclusion of FY-99. Initially, it looked as though the DoD would transfer authority to the FEMA prior to the end of FY-99. However, recent developments show that the FEMA may not assume program responsibility prior to the required date [Ref. 115]. Further, the DoD's support for exercises and preparedness testing will end after FY-2001. If all of the scheduled 120 cities nationwide have not received training by then, the likelihood of inconsistencies in the training from one city to the next increases because a different federal agency may have conducted the training. If the transfer of program responsibility is smooth and seamless, this potential problem may not materialize.

Third, the program's continued success largely depends on whether or not it receives adequate funding. The May 1997 DoD report to the Congress stated, "the key to success, however, is continued funding through the outyears to ensure that all agencies, local, state, regional, and federal, are adequately prepared to respond to a WMD terrorist

attack.” [Ref. 116] President Clinton did not request any funding for the program in its inaugural year, but his FY1998/FY1999 budget included \$49.5 million in FY-98 and \$52.1 million in FY-99 [Ref. 117]. The Congress provided the DoD \$50 million for use in FY-98 [Ref. 118].

As evidenced by the testimony of fire and rescue personnel before the Congress, local emergency response agencies, in general, do not have the special equipment or training necessary to deal with chemical and biological problems. Further, throughout their testimony, they called for the federal government to “train and equip” emergency first responders, implying that equipment should be federally funded. A significant decrease in the funding for the program could result in local agencies being poorly prepared to deal with consequence management issues.

## **B. PRIMARY RESEARCH QUESTIONS AND FINDINGS**

This thesis addresses a wide range of issues dealing with terrorists attacking the United States using nuclear, radiological, chemical, or biological weapons. Primarily, the thesis set out to answer the following question: What funds were requested, authorized, and appropriated in the FY-97 DoD budget for use in the defense against domestic terrorism by groups or individuals wielding WMD?

The funding for domestic preparedness was found in the Defense Against Weapons of Mass Destruction Act of 1996. This legislation did not progress through the legislative process as a single line-item normally would. The President did not include any request for its funding in FY-97. The House National Security and Senate Armed Services Committees did not include any funding requests in their versions of the FY-97 National Defense Authorization bills. Rather, the legislation was presented on the Senate floor by

Senators Nunn, Lugar, Domenici, and others as an amendment to the Senate version of the FY-97 National Defense Authorization bill. The amendment provided \$150 million to fund a wide range of activities, many of which were connected to the existing DoD Cooperative Threat Reduction Program. The Conference Committee, however, provided \$97 million overall to the Defense Against Weapons of Mass Destruction Act of 1996, with \$65 million available for the Domestic Preparedness Program.

The appropriations process paralleled the authorization process in that the same Senators mentioned above proposed an \$150 million amendment to the National Defense Appropriations bill on the Senate floor to fund the programs provided by the authorization process. The Conference Committee appropriated \$100 million to fund the programs, with \$10 million earmarked specifically for the Marine Corps' CBIRF, which was not funded in the authorization amendment. This meant the appropriators funded \$7 million less than the \$97 million contained in the authorization bill.

The original amendments to both the authorization and appropriations bills did not proceed through the normal legislative budget process. The amendments were not subject to normal committee hearings and markup sessions. The initiative was entirely congressional in nature, and the product of a small number of key congressional players operating outside the normal authorization and appropriations processes. This may indicate that the Domestic Preparedness Program is weakly institutionalized within the DoD; a situation which may be exacerbated by the temporary nature of DoD's responsibility as the lead agency for it.

The answers to the secondary questions of the thesis are listed below.

- What is the current national policy and strategy in regard to domestic chemical and biological counterterrorism?

The national strategy for dealing with terrorism is a complex and wide-ranging issue, and becomes even more so when the terrorist incidents involve WMD. The Clinton Administration made considerable gains in focusing federal efforts in Presidential Decision Directive 39. This document was described in a recent General Accounting Office Report:

In June 1995, the President issued Presidential Decision Directive 39 (PDD 39), the central blueprint for the U.S. counterterrorism strategy. PDD 39 restated standing U.S. policy and elaborated a strategy for combating terrorism and measures to implement it. The U.S. strategy consists of three main elements: (1) reduce vulnerabilities and prevent and deter terrorist acts before they occur; (2) respond to terrorist acts that do occur, including managing crises and apprehending and punishing terrorist perpetrators; and (3) manage the consequences of terrorist attacks. The strategy also incorporates consideration of weapons of mass destruction across the three elements. [Ref. 119]

The Anti-Terrorism Bill of 1996 also provided the U.S. with stricter judicial and law enforcement measures in dealing with terrorist attacks.

- What organizations inside and outside the DoD are responsible for implementing this strategy?

The Federal Bureau of Investigation, on issues of domestic crisis management, and Federal Emergency Management Agency, assisting in consequence management, are the two organizations responsible for implementation of U.S. strategy in dealing with terrorist attacks.

Within the DoD portion of consequence management, responsibilities are spread across several different agencies. The Assistant Secretary of Defense (Special Operations/ Low Intensity Conflict) provides policy resource and oversight for the Domestic Preparedness Program. The Assistant to the Secretary of Defense (Nuclear, Chemical, and

Biological Defense Programs) provides resource oversight for equipment procurement. The Department of the Army was given responsibility for the implementation of the Domestic Preparedness Program. The U.S. Army's Director of Military Support serves as the DoD staff action agent. Within the Chemical and Biological Defense Command, the Office of Domestic Preparedness was created to ensure smooth implementation of the program.

- Who were the major advocates and opponents for and against funding for the Defense Against Weapons of Mass Destruction Act and what were their rationales for taking these positions?

The overwhelming majority of the Congress gave full support to all of the measures contained in the Defense Against Weapons of Mass Destruction Act of 1996. This is not surprising because, according to Monica Chavez, professional staff member on the Senate Armed Services Committee, the authors of the legislation drafted it in such a way that no members of the Congress would likely vote against protecting U.S. cities from a domestic terrorist threat [Ref. 120]. Proof of this fact is found in the unanimous votes the Act received in the Senate and the small number of opponents speaking out against portions of it. Among those who did protest against specific sections of the legislation were Senator Strom Thurmond, who argued against beefing up existing CTR funds. The most ardent opponents were Representative Bob Barr and Senator Russell Feingold who opposed the Act's amending Title 10 of the U.S. Code to allow the military to directly intervene under extraordinary circumstances, including the arrest of civilians. Notwithstanding the opposition who spoke out against the legislation, there were no regular committee hearings or markup on the amendments. This gave the opposing senators and congressmen little opportunity to develop a case for changing some of the provisions, because the normal legislative process was not followed completely.

- How has the DoD implemented the policy and strategy which resulted from the Defense Against Weapons of Mass Destruction Act of 1996?

The DoD has devised and implemented strategy for domestic preparedness based largely on the interagency organizations and processes already in existence when the legislation passed. A federal partnership with the FEMA, FBI, EPA, DoE and PHS was created to facilitate implementation, which can be divided into three categories.

First, training is conducted by an interagency team and focuses on the delta between city first responders' current capabilities and the chemical biological expertise and equipment which they lack. After providing training to 27 initially selected cities, the plan calls for the team to train the city training officials in a total of 120 cities.

Second, in order for first responders to better access federal assistance, two telephonic links were established. The chemical biological hotline is operated by the U.S. Coast Guard's National Response Center and is for use in emergency situations. In non-emergency situations, the chemical biological helpline allows callers to access an electronic database of information, or be linked to an agency who may answer a specific question. Federal assistance is also provided through the Chemical Biological Rapid Response Team. The Team's composition is situationally dependent, and can be comprised of numerous DoD units such as the Marine Corps' CBIRF or the U.S. Army's Technical Escort Unit.

Third, the DoD will lead exercises to test a city's preparedness training after it has been conducted. The exercises can take the form of table-top simulations or practical "muddy boots" types such as the one which took place in Washington D.C. in May of 1997. Additionally, New York City and Baltimore are used as models to test systematic



preparedness concepts. Lessons learned from these two cities will be incorporated into training improvements for other cities which are scheduled to receive training.

### **C. CONCLUSIONS**

This thesis provides some insight into the complex issue of domestic preparedness in response to a WMD terrorist attack. However, the scope was largely limited to the role played by the DoD. The issue involves at least 40 other federal agencies and scores of other state and local ones. The DoD funding of roughly \$100 million is small when compared to the overall defense budget, and only comprises a fraction of the funding for the larger domestic preparedness issue.

The goal of terrorists is to spread fear and panic throughout the societies which they target. Decades of DoD experience and expertise in NBC defense are being utilized in assisting U.S. cities to better respond to the horrific conditions which could potentially be caused by a terrorist using WMD. The DoD's involvement will enable local responders to better manage the consequences of an attack, should one ever occur. The Congress made a logical decision in tasking the DoD to provide training in this area. However, at least five factors indicate the program may encounter future difficulties.

The first of these factors is the novelty of the Domestic Preparedness Program. Notwithstanding the fact that executive branch agencies have been involved in domestic emergency response for many years, the DoD has heretofore not been tasked with becoming involved to such a large degree. When the program began, DoD personnel were largely unfamiliar with the circumstances involved, and no organizational structure existed to support it. Since the signing of the FY-97 National Defense Authorization Act in September 1996, the DoD has been making implementation plans and schedules,

contracting with private industry, establishing infrastructure, and collaborating with other agencies on the program's course and speed.

The second factor is the unusual circumstances which exist when the DoD is mandated to become involved in civilian affairs on so regular a basis. The DoD possesses vast experience and expertise in NBC defense which are rightfully being shared with civilian agencies. However, the armed forces' primary mission is to fight and win wars for the United States. Assigning the DoD lead agency responsibilities for the Domestic Preparedness Program appears a bit awkward in light of the domestic preparedness training programs operated by the FEMA and DoE long before the DoD program's inception.

The third factor involves the process through which the Domestic Preparedness Program was created by the Congress. The Clinton administration indicated its satisfaction with other agencies' abilities to prepare U.S. cities for a WMD terrorist attack. The senators who sponsored the Defense Against Weapons of Mass Destruction Act expressed their dissatisfaction with the executive branch actions in this area by bringing legislation to the Senate floor. As mentioned above, the amendments to the FY-97 National Defense Authorization and Appropriations Acts did not engage the normal legislative channels to become law. The normal subcommittee and committee sessions where legislation is marked up, amended, debated, and thoroughly scrutinized were circumvented, thus minimizing opportunities to discover weaknesses and to correct them. Further, the military authorities involved in the program's implementation were unable to review it or comment on the impact its implementation might have on military unit readiness, or begin planning for the program's initiation.

The fourth of these factors is the convoluted organization within which the program is being implemented. As evidenced by Figure 4.1, the Domestic Preparedness Program is

being overseen and supervised by one Assistant Secretary of Defense, one Assistant to the Secretary of Defense, one Deputy Assistant to the Secretary of Defense, as well as the Department of the Army. Within the Department of the Army, three more offices are involved above the level where the agency with the expertise actually resides, i.e., the Chemical Biological Defense Command. This means that at least seven DoD agencies have program oversight. As the armed forces and other agencies outside the DoD constantly search for new missions in this time of fiscal austerity, over 40 agencies at the federal level alone become involved in NBC domestic preparedness, creating a confusing and perhaps too complicated system to be effective.

Finally, the factor with perhaps the largest impact on the Domestic Preparedness Program's effectiveness is its temporary nature. Before the first plans for implementation had been laid, the Congress built into the original legislation a provision for the DoD to transfer responsibility to another federal agency by the end of fiscal year 1999. Also, DoD support for training exercises would end five years after the program's beginning, or the end of fiscal year 2001. The program's provisional nature calls into question the incentives on the part of DoD officials to dedicate large amounts of time and resources, create permanent infrastructure, or execute rigorous implementation measures to accomplish program goals. The agency who will most likely take over program responsibility is the FEMA, who already handles domestic emergency consequence management in non-NBC cases. However, as the FEMA recently balked at taking over the Domestic Preparedness Program earlier than planned, the program will perhaps suffer the effects of being a marginal mission sooner than expected.

Although the new program has the potential to become problematic, the DoD is implementing chemical and biological training where none existed. The real test of

preparedness will come should an actual domestic terrorist attack using WMD occur. The federal government must take measures to ensure that the Domestic Preparedness Program is not thought of as a perfect solution to the complexities posed by a terrorist attack using WMD. Mr. James Q. Roberts, Principal Director to the Deputy Assistant Secretary of Defense (Policy and Missions) stated,

The U.S. Government is working hard to deter or prevent, and should that fail, to minimize the effects of a WMD terrorist incident. Nevertheless, there are no silver bullets. We have an excellent response capability, probably the finest in the world, but we cannot say with absolute certainty, that we can prevent the eventual use of a WMD device, or that our current procedures would completely negate the mass casualties and damage associated with such an attack. [Ref. 121]

#### **D. RECOMMENDATIONS FOR FURTHER STUDY**

Throughout the research of this thesis several issues were raised which would provide interesting topics for further research.

First, the future funding of the domestic preparedness issue could be tracked, beginning with the FY-98 budget request. For example, was the FY-98 funding requested and provided in accordance with normal congressional budget processes, unlike the original funding in FY-97? If so, did more or different opposition arise? Were implementation issues discussed in the processes? The issues of terrorism and the proliferation of WMD receive more public attention and media coverage every year. It might prove interesting to investigate the possibility of the funding actually being increased, due to heightened constituent awareness of the issues involved. This research would be particularly important in the aftermath of an actual attack.

Second, an analysis of cities' capabilities with regard to terrorist attacks using WMD could be pursued. For example, analyze how training effectiveness is measured,

standard operating procedures for interacting with other agencies, medical facilities' ability to handle mass casualties, and the amount of NBC equipment on-hand. This research could provide interesting insight into the actual effectiveness of the DoD program initiated in FY-97.

Third, as the Defense Against Weapons of Mass Destruction Act amended Title 10 of the U.S. Code allowing the military to directly intervene in civilian emergencies involving terrorist attacks or accidents involving nuclear, radiological, chemical, or biological weapons, further research of how this affects the Posse Comitatus Act could be undertaken. Additionally, the DoD was tasked to analyze how the National Guard could be used to support domestic preparedness efforts. An analysis of how the National Guard fits into the overall national response, as well as the funding of the effort, may prove useful.

Finally, it may prove useful, after a period of two to three years following implementation of the Domestic Preparedness Program, to analyze the overall direction which the program has taken. This can then be compared to the congressional intent when the program was begun in 1996. For example, it could be determined which federal agency received the responsibility for the program and when. The variation in funding levels for the follow-on organization could be investigated, as well as changes in DoD's original arrangements for implementation.

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## **APPENDIX A. NUNN-LUGAR-DOMENICI AMENDMENT**

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## **APPENDIX B. CONFERENCE COMMITTEE VERSION OF THE NUNN-LUGAR-DOMENICI AMENDMENT**

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